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ARBITRATION BETWEEN CARRIERS AND EMPLOYEES
BOARDS OF ADJUSTMENT

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE COMMERCE UNITED STATES SENATE

SIXTY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 2646

A BILL TO PROVIDE FOR THE EXPEDITIOUS AND PROMPT SETTLEMENT, MEDIATION, CONCILIATION, AND ARBITRATION OF DISPUTES BETWEEN CARRIERS AND THEIR EMPLOYEES AND SUBORDINATE OFFICIALS, AND FOR OTHER PURPOSES

MARCH 18, 28, 29, APRIL 4, AND 7, 1924

Printed for the use of the Committee on Interstate Commerce.

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ARBITRATION BETWEEN CARRIERS AND EMPLOYEES—BOARDS OF ADJUSTMENT.

TUESDAY, MARCH 18, 1924.

UNITED STATES SENATE,
SUBCOMMITTEE OF COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The subcommittee met, pursuant to call, in the room of the committee, Capitol Building, at 10 o'clock a. m., Senator James Couzens (chairman) presiding.

Present: Senators Dill and Gooding; also Senator Howell.

The subcommittee had under consideration the bill S. 2646, to provide for the expeditious and prompt settlement, mediation, conciliation, and arbitration of disputes between carriers and their employees, and subordinate officials, and for other purposes.

The CHAIRMAN. The committee will come to order. Who is the gentleman who will present the side of the railroad men?

Mr. DONALD R. RICHBERG. Mr. Chairman, I am counsel for the organized railway employees, and Mr. D. B. Robertson is president of the Brotherhood of Locomotive Firemen and Enginemen. He will make a brief statement, and I will also make a brief statement as counsel for the employees.

Mr. Chairman, if I may make a suggestion in advance, we thought to aid the committee by making a very brief initial presentation to get the matter entirely before the committee, and for that purpose Mr. Robertson has a short statement of the background of the law which he desires to make, and which I hope to follow with a short statement regarding the provisions of the law, and I think if we can put these matters before the committee promptly it will take a very short time and the matter will then be in shape, and then we will be very glad to answer any questions that may be propounded to us.

The CHAIRMAN. Very well, you may proceed in your own way.

STATEMENT OF D. B. ROBERTSON, PRESIDENT BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN.

Mr. ROBERTSON. Mr. Chairman, preliminarily to my remarks, I may say that I have here a list of the names of the organizations represented at this hearing, which I will be glad to have inserted in the record at this point. There are 20 organizations involved, including the 3 organizations engaged in the marine service, handling tonnage that comes within the interstate commerce act.

The CHAIRMAN. Without objection the list will be inserted in the record.

(The list is as follows:)

Brotherhood of Locomotive Engineers, W. S. Stone, grand chief engineer; Brotherhood of Locomotive Firemen and Enginemen, D. B. Robertson, president; Order of Railway Conductors, L. E. Sheppard, president; Brotherhood of Railroad Trainmen, W. G. Lee, president; Switchmen's Union of North America, T. C. Cashen, president; Order of Railroad Telegraphers, E. J. Manion, president; American Train Dispatchers' Association, J. G. Luhrsen, president; International Association of Machinists, W. H. Johnston, president; International Brotherhood of Boilermakers, Iron Ship Builders, and Helpers of America, J. A. Franklin, president; International Brotherhood of Blacksmiths, Drop Forgers, and Helpers, J. W. Kline, president; Amalgamated Sheet Metal Workers' International Alliance, J. J. Hynes, president; International Brotherhood of Electrical Workers, J. P. Noonan, president; Brotherhood of Railway Carmen of America, M. F. Ryan, president; Brotherhood of Railroad Signalmen of America, D. W. Helt, president; Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employes, E. H. Fitzgerald, president; Brotherhood of Stationary Firemen and Oilers, Timothy Healy, president; United Brotherhood of Maintenance of Way Employes and Railroad Shop Laborers, F. H. Fljozdal, president; National Organization, Masters, Mates, and Pilots of America, J. H. Pruett, president; International Longshoremen's Association, A. J. Chlopek, president; National Marine Engineers' Beneficial Association of the United States of America, William S. Brown, president; American Federation of Labor, Samuel Gompers, president.

Mr. ROBERTSON. Mr. Chairman, the railway bill embodies a program for insuring continuous and efficient operation of the railroads which has the enthusiastic support of all railway and marine labor organizations subject to the provisions of the transportation act, 1920, including the American Federation of Labor. In their behalf I will present a short statement, first, of the need for such legislation and, second, of the reasons why the Howell-Barkley bill will accomplish the results desired. This statement will be followed by another short statement from Mr. Donald R. Richberg, counsel for organized railway employees showing the bases in previous laws and legal precedents for the proposed legislation.

First. This legislation is necessary because Title III of the transportation act has failed to insure or even to promote industrial peace.

The failure of the transportation act, Title III, is summarized as follows:

1. Its enactment was the result of hasty compromise.

(*a*) The Esch bill provided (permissive):
I. Conferences.
II. Adjustment board.
III. Board of appeals.
IV. No antistrike provision.
(*b*) The Cummins bill provided (compulsory):
I. Three adjustment boards.
II. Committee on wages and rules.
III. Transportation board.
IV. Drastic antistrike provision.
(*c*) The Esch-Cummins Act provided (semipermissive and compulsory):
I. Conferences.
II. Voluntary adjustment boards.
III. Labor board.
IV. Publicity.

The Esch-Cummins Act was a new piece of legislation produced by conference in eight days without hearings and opposed by the organized employees and generally by organized labor. It has satisfied no one. After 30 years without interruption of transportation service, we have seen in four years under the transportation act discord and strife prevalent on the railroads and the only national strike in our history.

Primarily the fault lies in the law. Secondarily in administrative action under the law resulting largely from the unsoundness of the law. The railway workers are unitedly opposed to its continuance. The railway managers openly flout the law and only utilize it when it operates in their interest.

The conviction on the part of the railway employees of the country that Title III and the Labor Board have failed, is so general, so well known, and so emphatically expressed, that it is unnecessary to refer to the numerous occasions upon which this feeling has been manifested.

In July, 1922, upon instructions from their conventions, representatives of all the organized train, engine, and yard-service men, laid before Congress a plea that the transportation act, 1920, be immediately repealed. Excertps from the communication are as follows:

> This law has now been in effect and the United States Railroad Labor Board has been in existence for more than two years, which two years' experience has proved conclusively that the judgment of the railroad employees in opposing Title III * * * was correct.
>
> Instead of composing the situation and preserving industrial peace on the railroads, we now find ourselves in a more chaotic condition, with more unrest and disturbed industrial conditions on the railroads than at any time in the past history of our Government.
>
> The President of the United States has had an opportunity to change the personnel of the * * * board materially since the original appointments * * *. As a matter of fact, six of the nine original members' terms have expired and new members appointed or the old members reappointed, which has given the Chief Executive an opportunity of correcting to a large extent any mistakes that may have been made in the appointment of the original board after an experiment with the board * * *
>
> This leads us to believe that the fault lies with the plan or system probably more so than with the personnel of the board * * *. The situation is rapidly getting worse from time to time * * *.

The executive committee of the American Federation of Labor, in its annual report to the convention, June 21, 1922, made the following statement with reference to the failure of the transportation act:

> A review of the decisions of the Railroad Labor Board for the past year confirms the conviction expressed a year ago that its operation shows nothing of a constructive statesmanship and that its decisions are not in the direction of justice, uniformity, and economy. However, we may characterize the decisions, the important fact emphasized, is that the decisions of the Railroad Labor Board have given satisfaction neither to the workers nor to management and have tended toward a more general demoralization of the morale of the mechanical forces upon whom the successful operation of the railroads depend. Indeed, it is inconceivable that there could be designed a court or tribunal which would bring to all concerned that same degree of satisfaction that arises out of collective agreements mutually agreed upon. The Esch-Cummins law, through the Railroad Labor Board, has practically destroyed the conception of voluntary agreements between employers and workers and the subject of compensation for services rendered has become a constant source of litigation and irritation.

2. Title III was a compromise between compulsion and persuasion. It established a sort of court with all the expense, delay, and complications of judicial proceedings, without the power to end the controversy with an enforcible decision.

It established a board to take the place of mediators who should be persuaders and then required them to decide disputes which made them arbitrators. As soon as they began deciding disputes

they immediately lost standing as mediators. Their peace-power became dependent on force and they had no force to exert.

3. To make the transportation act effective required boards of adjustment, but these were left voluntary, to be established by agreement between the carriers and employees. (Title III, sec. 302.)

The railroads refused to join with the employees in creating boards of adjustment (except in the case of a limited number, where a joint agreement was reached between representatives of the railroads and representatives of the Brotherhood of Locomotive Engineers, Brotherhood of Locomotive Firemen and Enginemen, Order of Railway Conductors, and the Brotherhood of Railroad Trainmen), and the act became unwieldly. Nothing was settled in conference and every petty grievance was referred to the one national board (the Railroad Labor Board) resulting in the board being swamped, causing absurd expense and intolerable delay.

Failure of the board is shown by its inability to decide many cases and the extreme delay in deciding others, as indicated by its own records:

At the present time four organizations have 845 undecided cases before the labor board which have been pending from three months to three years; 1,035 cases have been decided for these same four organizations, after having been before the board from three months to three years.

Undecided cases referred to the United States Railroad Labor Board by the Brotherhood of Locomotive Engineers and Brotherhood of Locomotive Firemen and Enginmen to January 1, 1924:

Length of time pending without decision:	Cases.
Less than 3 months	17
3 and less than 6 months	3
6 and less than 9 months	11
9 and less than 12 months	41
12 and less than 15 months	35
15 and less than 18 months	59
18 and less than 21 months	6
21 and less than 24 months	85
24 and less than 27 months	20
27 and less than 30 months	14
30 and less than 33 months	21
Total	312

Decided cases referred to the United States Railroad Labor Board by the Brotherhood of Locomotive Engineers and Brotherhood of Locomotive Firemen and Enginemen to January 1, 1924:

Length of time required to decide:	Cases.
Less than 3 months	22
3 and less than 6 months	31
6 and less than 9 months	32
9 and less than 12 months	141
12 and less than 15 months	10
15 and less than 18 months	21
18 and less than 21 months	32
21 and less than 24 months	31
24 and less than 27 months	13
27 and less than 30 months	5
30 and less than 33 months	0
33 and less than 36 months	1
36 and less than 39 months	1
Total	340

Undecided cases referred to the United States Railroad Labor Board by the Order of Railroad Telegraphers to October 16, 1923:

Length of time pending without decision:	Cases.
Less than 3 months	28
3 and less than 6 months	17
6 and less than 9 months	21
9 and less than 12 months	14
12 and less than 15 months	42
15 and less than 18 months	34
18 and less than 21 months	5
21 and less than 24 months	6
24 and less than 27 months	4
27 and less than 30 months	1
30 and less than 33 months	2
Total	174

Decided cases referred to the United States Railroad Labor Board by the Order of Railroad Telegraphers to October 16, 1923:

Length of time required to decide:	Cases.
Less than 3 months	9
3 and less than 6 months	12
6 and less than 9 months	18
9 and less than 12 months	22
12 and less than 15 months	10
15 and less than 18 months	9
18 and less than 21 months	2
21 and less than 24 months	1
24 and less than 27 months	1
27 and less than 30 months	0
30 and less than 33 months	1
33 and less than 36 months	2
Total	87

Undecided cases referred to the United States Railroad Labor Board by the Railway Employees' Department, American Federation of Labor, to February 1, 1924:

Length of time pending without decision:	Cases.
Less than 3 months	4
3 and less than 6 months	3
6 and less than 9 months	6
9 and less than 12 months	4
12 and less than 15 months	0
15 and less than 18 months	0
18 and less than 21 months	1
21 and less than 24 months	1
24 and less than 27 months	2
27 and less than 30 months	13
30 and less than 33 months	1
38 months	1
Total	36

NOTE.—Where final consideration was probably influenced by the shopmen's strike delay computed only to July 1, 1922, effective date of the strike.

Decided cases referred to the United States Railroad Labor Board by the Railway Employees' Department, American Federation of Labor, to February 1. 1924:

Length of time required to decide:	Cases.
Less than 3 months	46
3 and less than 6 months	57
6 and less than 9 months	23
9 and less than 12 months	12
12 and less than 15 months	12
15 and less than 18 months	14

Length of time required to decide—Continued.	Cases.
18 and less than 21 months	4
21 and less than 24 months	3
24 and less than 27 months	1
27 and less than 30 months	2
Total	174

Cases withdrawn submitted to Labor Board by the Railway Employees' Department, American Federation of Labor, to February 1, 1924, but withdrawn on account of settlement reached through conference between the parties:

Time pending before withdrawn:	Cases.
Less than 3 months	8
3 and less than 6 months	15
6 and less than 9 months	2
9 and less than 12 months	2
12 and less than 15 months	1
15 and less than 18 months	3
18 and less than 21 months	1
21 and less than 24 months	4
Total	36

Undecided cases referred to the United States Railroad Labor Board by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, to December 31, 1923:

Time pending without decision:	Cases.
Less than 3 months	22
3 and less than 6 months	33
6 and less than 9 months	46
9 and less than 12 months	74
12 and less than 15 months	48
15 and less than 18 months	53
18 and less than 21 months	19
21 and less than 24 months	8
24 and less than 27 months	32
27 and less than 30 months	17
30 and less than 33 months	4
33 and less than 36 months	1
36 and less than 37 months	2
Total	359

NOTE.—General wage or rules submissions not included in above.

Decided cases referred to the United States Railroad Labor Board by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, to December 31, 1923:

Length of time required to decide:	Cases.
Less than 3 months	28
3 and less than 6 months	126
6 and less than 9 months	223
9 and less than 12 months	98
12 and less than 15 months	91
15 and less than 18 months	20
18 and less than 21 months	10
21 and less than 24 months	8
24 and less than 27 months	2
27 and less than 30 months	2
Total	608

NOTE.—General wage or rules submissions not included in above.

Cases withdrawn submitted to labor board by the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, to December 31, 1923:

Time pending before withdrawn:	Cases.
Less than 3 months	32
3 and less than 6 months	95
6 and less than 9 months	77
9 and less than 12 months	16
12 and less than 15 months	16
15 and less than 18 months	7
18 and less than 21 months	0
21 and less than 24 months	2
24 and less than 27 months	2
27 and less than 30 months	5
30 to 33 months	1
Total	253

NOTE.—General wage or rules submissions not included in above.

Undecided cases referred to the United States Railroad Labor Board by the United Brotherhood of Maintenance of Way and Railway Shop Laborers from September 22, 1921, to December 31, 1923:

Time pending without decision:	Cases.
6 and less than 9 months	3
9 and less than 12 months	3
12 and less than 15 months	2
15 and less than 18 months	4
18 and less than 21 months	4
21 and less than 24 months	5
24 and less than 27 months	2
27 and less than 28 months	2
Total	25

NOTE.—Eight of above cases involve rates of pay, one being an arbitrary reduction in rates pending 21 months.

Decided cases referred to the United States Railroad Labor Board by the United Brotherhood of Maintenance of Way and Railway Shop Laborers from March 5, 1921, to December 31, 1923:

Length of time required to decide:	Cases
Less than 3 months	23
3 and less than 6 months	90
6 and less than 9 months	62
9 and less than 12 months	16
12 and less than 15 months	12
15 and less than 18 months	0
19 months	1
Total	204

NOTE.—Eighty-three additional cases decided in same period, but incomplete records made impossible computation of time necessary to decide.

The above records showing delay in handling cases before the Railroad Labor Board cover only 10 of the 20 labor organizations subject to the transportation act.

President Coolidge, in his message to Congress, December 6, 1923, said, inter alia:

The settlement of railroad labor disputes is a matter of grave public concern. The Labor Board * * * is not altogether satisfactory to the public, the employees, or the companies. If a substantial agreement can be reached among the groups interested, there should be no hesitation in enacting such agreement into law.

Secretary Herbert Hoover, addressing the National Transportation Conference, composed of representatives from all the groups directly interested in the railroads, held in Washington, January 9, 1924, said in part, that he urged as a part of the national policy—

A basis of employer and employee relationship that will stimulate mutual responsibility as the first requisite to continuous service. * * *

The reorganization of the Railway Labor Board is one resolution that has had some discussion with your subcommittees. The President has suggested the importance and the desirability of some agreement upon this question as a basis for amendment to the act. The present set-up of labor adjustment has not given entire satisfaction, and in considerable degree this is due to inherent faults in the construction of the board and in its authorities.

We have in this board confused four different functions in labor relationship. The board has in parts the machinery for collective bargaining, for arbitration, for conciliation, and judicial determination. Whatever change is made in the machinery to solve these relationships the changes should if possible be constructively developed by the railway employees and executives themselves, plus perhaps, the assistance of independent persons who represent the public interest.

Secretary James J. Davis in his annual report for 1923 to the President, as head of the Department of Labor, said, in part:

Apparently the differences between the management of the railroads and their mployees have been increased and complicated rather than diminished by the operation of the machinery provided by section 300 of the law (transportation act). The practical operation of that plan brings about unreasonable delays in the adjustment of minor disputes and accentuates to the dignity of a contest petty differences with reference to wages and conditions of labor.

The machinery has proved unwieldly. It seems to me that some machinery less complicated and less cumbersome should be set up to provide for the equitable and expeditious settlement of these disputes through well-known and oft-used channels in order that our transportation system may function at its highest rate of efficiency in the interest of the country.

Judge George W. Anderson, judge of the circuit court of appeals, first circuit, formerly member Massachusetts Public Service Commission and Interstate Commerce Commission, in testifying at the hearings of the New England Committee on Railroad Consolidation, in Boston, December 20, 1922, said, among other things:

Turning to the labor provisions of the transportation act, the situation is still blacker. A large part of the dominant managerial forces did not accept, in good faith, the labor provisions of the act. Those labor provisions, in which I never had much confidence, were * * * an attempt on the part of many of the legislators to safeguard the essential rights of labor and avoid interruption of railroad service by strikes.

There was not sufficient political courage in Congress to make strikes flatly illegal, or to provide adequate responsible representation of labor in the initial management so as to make them practically impossible. The compromise was to leave the labor forces at the mercy of the exploiting forces that dominate the railroads, and to provide a tribunal to arbitrate in the controversies certain to result. How the scheme would have worked if it had been accepted in good faith by practically all the railroad managers, no one can say. It was not so accepted. The shopmen's strike of last July was the result. * * * To repeat: The labor provisions were practically their own scheme for dealing with labor, and they showed neither good faith nor tolerable efficiency in working their own scheme. * * *

The general result is that the mass of railroad employees were, in my opinion, never so embittered and so distrustful of railroad management as now. The relations between the managerial staff and the operating staff were never so bad. Except in a few spots, there is no such thing as loyalty to the existing railroad corporations. No amount of printed propaganda and deception can conceal the fact that railroad equipment is now utterly inadequate for its job. The shopmen's strike has cost the railroads many millions of dollars in direct cash outlays, and hundreds of millions more in loss of traffic. It has cost the American people untold sums, probably millions in the aggregate. Nothing has been settled. The strike was lost by both sides so far as labor cost was concerned. If it taught us any valuable lesson, it is that we must have a radical change in the relations between the human forces absolutely essential to the ongoing of our transportation industry, and the managerial forces. The labor provisions of the transportation act are effectually discredited. So is the Labor Board. * * *

Mr. Chairman, I have several other excerpts from statements of prominent and public men concerning the necessity for changing the present system of adjusting railroad disputes, which, with the permission of the committee, I would like to have included in the record without detaining the committee by reading them.

The CHAIRMAN. Without objection they will be inserted in the record.

(The excerpts referred to are as follows:)

Mr. Charles Rippin, president of the National Industrial Traffic League, at the National Transportation Conference held in Washington, January 9 to 12, 1924, on behalf of his organization, advocated the repeal of the labor board provision of the transportation act. He said, in part:

In the first place, the board as constituted under the law is not a disinterested tribunal. The presence of the partisan representatives upon an administrative or judicial board has a tendency to destroy its usefulness as a tribunal. We believe that private industry will be better off without the Railroad Labor Board.

Dr. Emory T. Johnson, dean Wharton School of Finance, University of Pennsylvania, expert on transportation, United States Industrial Commission, 1899; expert on traffic, National Waterways Commission, 1909; member public service commission, Pennsylvania, 1913–1915; transportation expert, Chamber of Commerce of the United States of America, and author of books, etc., on transportation, at National Transportation Conference, Washington, January, 1924:

I have never been content with the tripartite organization of the Labor Board. I have reached that conclusion as the result of some experience, not only as a theoretical study, and I am inclined to think that the effect of the present board is to minimize the settlement of disputes directly by negotiation between representatives of the carriers and the employees—I mean disputes as to wages, not as to working conditions—and I sincerely hope that the resolution committee will have put before it other plans than the present Railway Labor Board plan, and that out of this conference may come one of two things: Either a recommendation for a conference such as Mr. Hoover suggested, i. e., between employees and carriers, or a definite recommendation for a different organization of the Railway Labor Board.

Mr. Henry Bruere, vice president Metropolitan Life Insurance Co., for years in charge of industrial, etc., investigations and research; Federal Director United States Employment Service for New York State; director National Railways of Mexico, etc., at National Transportation Conference, Washington, D. C., January, 1924, as reported in 76 Railway Age, 237 (240):

Henry Bruere * * * proposed that the railroad managers and their employees hold a conference to establish some plan of cooperation. He asked whether it would be appropriate for the committee (on resolutions) to add a suggestion that the management of the railways and their various groups of employees early confer in some appropriate way, regarding a general plan of cooperation between the companies and employees, in their mutual interest and in the interest of the public. And that such conference also address itself to the establishment of methods including the necessary public machinery for maintaining such cooperative relations.

Mr. Edwin E. Witte, chief legislative reference library, State of Wisconsin, made the following statements regarding Title III:

The present law has failed to preserve industrial peace on the railroads of the country. * * *

The labor provisions of the present law and the railroad labor board are discredited among the organized railroad employees of the country. The railroad men's unions, practically without exception, regard the railroad labor board as an ally of the antiunion railroad executives. * * *

The present law has utterly failed to bring about better relations between the carriers and their employees. * * *

The railroad labor board in its decisions has failed to accord to the railroad employees any guaranty corresponding to the guaranties to capital invested in the carriers. This is illustrated in the decision of the board denying to common labor on the railroads a living wage and ridiculing the idea of a living wage.

The New Republic, in an editorial under date of September 20, 1922, entitled "The failure of railroad arbitration," emphasizes the complete failure of the Labor Board and the act upon which it rests to handle the railroad labor problem. Following are excerpts from the editorial:

The * * * approach of at least some kind of a settlement on the railroads has torn from the public mind the last remaining memory of the agency which was charged two years ago with the duty of preserving peaceful relations between railroad operators and their employees. The arbitral settlement of industrial differences is, however, too important to permit this dismal collapse of the Railroad Labor Board to pass unnoticed. * * *

Tested by standards of arbitration * * * the Railroad Labor Board has been a total and tragic failure. It failed first because it was unwilling to accept the actual and practical status of unionism in the railway industry. * * * In place of interpreting those forces peculiar to the transportation industry and translating them into decisions of the board, it constituted itself a court of liquidation or of receivers and proceeded to write decisions that could have as their effect only the weakening and liquidation of the railway labor movement. Wherever past industrial practice on the railroads afforded standards of labor relations, the board disregarded them and sought their standards in industries where liquidation of labor was most drastic and least difficult. In no unionized industry in the country, and indeed, in few nonunion industries, was liquidation attempted with such severity and with such a disregard of conditions as on the railroads. * * * The decisions of the board * * * did not only reduce wages and lengthen hours, but also struck at the very heart of the strength of the railway unions. * * *.

Mr. ROBERTSON: In a statement by Chairman Hooper, of the United States Railroad Labor Board, he set out that between April 15, 1920, and December 15, 1922, 58 of the 201 class I railroads and 56 of the 892 short-line railroads had violated the decisions of the board. In a statement authorized by Mr. Hooper and issued by the board, entitled "Violations of the transportation act, 1920 * * * as of November 15, 1923," the total disputes filed, charging violations from December 15, 1922, to November 15, 1923, were 188. Of this total the board ruled against the carriers in 77 cases, 64 disputes were designated as otherwise disposed of, and 47 still pending among class I roads. On the short-line carriers 63 disputes had been filed as for violations, 6 decisions were against the carriers, 28 otherwise disposed of, and 29 still pending and undecided.

Hence, for that period there were filed a total of 251 alleged violations of the orders of the board. Among these violations are those of the Pennsylvania Railroad, involving about 200,000 workers; the New York Central violations, affecting agreements with more than 30,000 men and the Erie violation affecting agreements with all classes of employees on that road, except the train and engine service organizations. It has been estimated that over one-half of the railroad employees in the country have suffered directly or indirectly by the violations of the board's decisions. Such violations are clear evidence of the failure of the board to handle the railroad labor problems.

4. Faults in the constitution of the United States Railroad Labor Board:

(*a*) The appointment of public members who were without interest and without technical knowledge of the railroad industry meant the appointment of men unqualified to understand the problems of the engine cab, the train, the yard, the ship, or the machine shop, who accentuated the court atmosphere, made themselves offensive to the employees, and destroyed confidence. This arose from the law requiring them to decide questions. As mediators they would have been useless unless able to obtain confidence. As deciders they attempted to rely on power and force instead of on persuasion.

I. The attitude of two members of the public group (Chairman Hooper and former Chairman Barton) became so offensive to the employees that they protested to the late President Harding. In the case of former Chairman Barton, protest was made against his reappointment on the board. Doubtless, honest in his convictions, he seemed obsessed with the idea that it was necessary to preserve complete individual "freedom of contract" although bargaining collectively and, notwithstanding the Supreme Court in one of its decisions said the duty of the Labor Board was "to reach a fair compromise between the parties without regard to the legal rights upon which each side might insist in a court of law." Although a majority decision of the Labor Board held that the receivers of the Atlanta, Birmingham & Atlantic Railway, in arbitrarily reducing the wages of its employees, had violated the Transportation Act and rulings of the board, the receiver refused to comply with the board's decision and gave as his reasons the grounds set forth in a dissenting opinion by former Chairman Barton.

Numerous speeches were delivered by Chairman Hooper before various railway and civic clubs, wherein he assailed members of organized labor for assuming to assert their political independence. He assumed to go out of his way to erroneously interpret and criticize the policies of the railway labor organizations with the result that his statements were seized upon and broadcasted throughout the country by the opponents of organized labor. To openly criticize the policies of the railway unions could not be construed as representing hostility to the policies of the railroads.

In fact, to the members of the railway unions it appeared that the opponents of organized labor were utilizing the statements of Chairman Hooper in an effort to discredit the railway unions. Although embittered and desirous of expressing resentment, members and representatives of the organizations hesitated to give expression to their feelings. They had to plead their cases before the Labor Board. The transportation act makes no provision for a change of venue. The situation finally became unbearable. Men were ready to revolt against such action by a public member of the Labor Board who, being a representative of the public and possessed of judicial knowledge and training, should have hesitated to assume to criticize the policies of either the railroads or the employees. The Cleveland Press, May 24, 1923, in an editorial entitled "An editorial

by a lawyer," criticized Mr. Hooper's digressions from the path of duty as chairman of the Labor Board, in the following language:

Many have prayed to be delivered from their friends. The Supreme Court may well join in that prayer. Its latest defender is Ben Hooper, chairman of the Railroad Labor Board. Instead of attending to his business, he is the traveling propagandist of conservatism. As long as the railroads treated with contempt the decisions of the Railroad Labor Board, what protest did Hooper make? When, though, a labor organization followed the example of the railroads, Hooper let out a wild yell about anarchy and bolshevism.

Farmers, workers, manufacturers, merchants, shippers, and consumers of every class have suffered too recently and severely from the incompetence of the Railroad Labor Board to give heed to warnings from its head, no matter how widely they are trumpeted in certain organs of privilege.

Such defenders of judicial supremacy hurt the cause they advocate. The administration of justice in this country has suffered for lack of criticism and publicity. Far-seeing lawyers, as well as laymen, now recognize this. Loud-mouthed pygmies like Hooper accomplish nothing but to advertise that they are so far in the rear that their existence would be forgotten but for the noise they make.

II. The Labor Board appeared helpless and without power or influence to deal with the situation when its decisions were openly flouted by the railroads, but when the shopcrafts assumed to leave the service of the railroads in protest against the third reduction in their wages, totaling approximately 25 per cent, and against other wrongs, the Labor Board immediately exhibited a powerful influence against the employees and joined with the railroads in an effort to crush the shopcraft unions, as will be shown in the following resolution, adopted by a majority vote of the board on July 3, 1922.

This resolution, Mr. Chairman, is referred to as the outlaw resolution, adopted by the Labor Board immediately following the national strike of shopcrafts. It is very lengthy, and unless the committee cares to have it read, I will ask to have it included in the record.

The CHAIRMAN. It will be inserted in the record.

(The resolution referred to is here printed in full, as follows:)

Whereas the six organizations comprising the Federated Shop Crafts have notified the Railroad Labor Board that a very large majority of the employees which they represent have left the service of the carriers, that the members of said organizations are no longer employees of the railways, under the jurisdiction of the Railroad Labor Board or subject to the application of the transportation act; and

Whereas the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, United Brotherhood of Maintenance of Way Employees and Railway Shop Laborers, International Brotherhood of Firemen and Oilers, and Brotherhood Railroad Signalmen of America have also made known to the board that they have put out strike ballots on all or a part of the carriers which may result in the classes of employees which they respectively represent leaving the employ of the carriers; and

Whereas in the future submission of disputes involving rules, wages, and grievances of said classes of employees of the carriers it will be desirable, if not a practical necessity, for the employees of each class on each carrier to form some sort of association or organization to function in the representation of said employees before the Railroad Labor Board, in order that the effectiveness of the transportation act may be maintained: Now, therefore, be it

Resolved, That it be communicated to the carriers and the employees remaining in the service and the new employees succeeding those who have left the service to take steps as soon as practicable to perfect on each carrier such organizations as may be deemed necessary for the purposes above mentioned; and be it further

Resolved, That on any carrier where either of the above-named organizations, by reason of its membership severing their connection with the carriers, ceases to represent its class of employees, procedure similar to that above suggested in the case of the shop crafts is recommended; and be it further

Resolved, That the employees remaining in the service and the new ones entering same be accorded the application and benefit of the outstanding wage and rule decisions of the Railroad Labor Board, until they are amended or modified by agreements with said employees, arrived at in conformity with the transportation act, or by decisions of this board; and be it further

Resolved, That if it be assumed that the employees who leave the service of the carrier because of their dissatisfaction with any decisions of the Labor Board are within their rights in so doing, it must likewise be conceded that the men who remain in the service and those who enter it anew are within their rights in accepting such employment; that they are not strikebreakers seeking to impose the arbitrary will of an employer on employees; that they have the moral as well as the legal right to engage in such service of the American public to avoid interruption of indispensable railway transportation; and that they are entitled to the protection of every department and branch of the Government, State and national. It is suggested that carriers bulletin this resolution which was adopted by the majority action of the board.

Mr. ROBERTSON. Concerning the actions of the Labor Board, as indicated in its resolution of July 3, 1922, the New Republic, in an editorial under date of September 20, 1922, carried the following statement:

The failure of the Railroad Labor Board is not, however, limited to its procedure during the peaceful period of its existence. Its greatest and most eventful blunder it made on the eve of the present railway strike, when it met the threat of a strike with the counter threat of outlawing the strikers and their organizations. * * *.

It (such threat) is the employer's way of breaking a strike. * * * It is not, however, the method that arbitrators employ in their attempts to make an adjustment and to restore peace. * * * These plain facts of record and experience, known even to casual students of the labor movement, the Railroad Labor Board saw fit to overlook, just as it had overlooked the balance of power on the railroads before the strike. To members of the railway unions and to their sympathizers these actions of the board, following so close upon its past decisions, mean only hostility to trade-unionism and to the practices of organized labor. Unfortunately the record of the board justifies these feelings.

With further reference to the faults in the constitution of the United States Railroad Labor Board, I will say that the railroad and labor members became complete partisans, each striving to bring over the public members to their side. Under the circumstances a board composed only of three public men would doubtless have accomplished as much good.

(c) The transportation act (sec. 304) and regulations promulgated by the Interstate Commerce Commission provide the method for nominating and appointing all members on the Labor Board. The intent and purpose of these regulations, however, were not strictly adhered to, with the result that certain labor members appointed were not the chosen representatives of the employees. Although protest was made to the President against such appointments, they were permitted to stand. For two years one of the groups of employees was entirely without representation on the board.

5. The Labor Board has adopted unsound policies. Although the courts and numerous arbitration boards have for many years declined to consider "the ability of a carrier to pay" when fixing the wages of railway employees, the Labor Board has assumed to disregard this long and well established rule. The board attempts to justify its action by stating that "the ability of a carrier to pay" is entitled to "secondary" consideration. But whether it is given "secondary" or "preferential" consideration affords little comfort to the employees

whose wages are reduced below the level of wages paid to their associates on neighboring lines.

The public are required to pay the same rates for service rendered by the railroads regardless of whether it is rendered by a poor road where wages have been reduced or by a strong road where standard wages are being paid. The policy of the Labor Board in this respect is equivalent to the recognition of the right of a railroad to reduce the wages of its employees, even though at the same time it may be paying the highest prices in the history of its existence for coal, crossties, lumber, steel, and other necessary supplies and is charging the public standard rates for services rendered.

Under the Labor Board's new theory of fixing wages the employees, without means of adequate defense under the transportation act, would alone be required to assume the burden of a railroad's financial difficulties.

"The ability of a carrier to pay," although used as a basis for reducing men blow a fair wage, has never been suggested as a basis for increasing men above a fair wage. If such a theory were applied in the matter of increasing wages, the employees on certain railroads would immediately receive a very noticeable increase in their wages.

6. General widespread dissatisfaction exists among the railroad employees. The organizations are reluctant to go to the Labor Board with matters that vitally affect the employee they represents. The railroads violate decisions with the sanction of the courts. If the men violate decisions they are denounced and abused.

It is a mechanism of discord. That all labor organizations on the railroads—in fact, the entire American labor movement and the public generally—are against the present law, make it a farce to retain it. It is like offering a hungry man food that turns his stomach. No sincere friend of the railway workers, no intelligent advocate of industrial peace can defend maintaining this mischievous law on the statute books. It should be repealed. What shall take its place?

II. The new law proposed is old successful law brought down to date.

The Howell-Barkley bill is legislation carefully and soundly based on legal principles and legal machinery that have been tested and found effective.

What means have preserved peace in the past?

1. Conferences between the self-chosen representatives of workers and managements.

2. Equipartisan boards of adjustment to deal with the technical problems of operation.

3. Mediation by impartial Government officials, who persuade but do not decide.

4. Voluntary arbitration of major controversies.

Examples: (*a*) The successful termination of recent wage negotiations involving engine and train-service employees on all properties comprising the New York Central System—and the equal success with which the present wage questions of engine and train-service men are being settled on other railway systems—shows what can be accomplished if both parties enter into conferences in good faith, each respecting the rights of the other and both respecting the rights of the public.

The soundness of a law which lays primary emphasis on conferences is here proven.

(*b*) At the present time equipartisan adjustment boards are functioning successfully in the Eastern, Western and Southeastern regions, where same have been created by agreement between certain railroads and the organizations representing engine and train-service men. The unvarying success with which equipartisan boards of adjustment decided all disputes arising out of grievances or application of agreements during Federal control of railroads is a matter of history.

(*c*) Government records will disclose that during the life of the Erdman and Newlands Acts mediation and conciliation were successfully employed in the settlement of many disputes—some of which were of major importance and at times appeared impossible of settlement.

(*d*) Most of the major wage controversies involving engine and train service employees subject to the provisions of the Erdman and Newlands Acts were settled by arbitration. Although in some instances disappointed with the results of such arbitrations, having agreed in advance to accept the award, the employees kept faith with their agreement to arbitrate. Records showing results of arbitrations conducted under the Erdman and Newlands Act will show that both parties invariably accepted the general terms of the award and that any controversies arising out of the award were usually of a minor character that required interpretations of the award.

Preparatory work on the bill: Before presenting their ideas to Members of Congress the Railway Labor organizations felt it their duty to work out their solution of this problem to present a united constructive program, to attempt to solve their own problems, not to ask Congress to lead them paternally into the paths of good citizenship, but to show their readiness and ability to find these paths themselves. Although legislation of the character now under consideration has heretofore been opposed by the railway employees, they are mindful of the general trend of public thought toward the railroad problem and, having regard for the situation and in their own self-interest, they are as a unit in support of the program contained in the Howell-Barkley bill.

For 18 months they labored in committees and conferences to develop their program. During the last nine months they consulted with their attorneys in order to shape their ideas in accordance with sound legal precedents and to express them in appropriate and unmistakable language in order that the letter of the law might express its spirit. Then they presented the results of their labors to members of both Houses of Congress. At the suggestion of the President they discussed their program in detail with his designated representative, the Secretary of Commerce, and also with the Secretary of Labor. The bill as introduced by Senator Howell and Congressman Barkley has passed through this painstaking preparation and penetrating scrutiny, being redrafted no less than six times and comes before you without substantial criticism of its present form and substance by a single person who has studied it.

This bill is not prepared as an amendment to the transportation act. It is not a part of any general program to amend that law. It is a separate act merely repealing Title III of that law because it establishes a new and independent machinery to promote industrial peace on the railroads.

Let it not be thought that the bill proposes to force railroad managements against their will to experiment with a novel machinery to settle labor disputes. This bill simply presents an industrial code for the railroads made up from the written and unwritten laws that have governed industrial relations on the railroads for many years.

The basis of these relations lie in agreements arrived at through collective bargaining. There is not a railroad in the United States that is operating without such agreements to-day and not one which could function effectively for a month in the absence of such agreements.

It requires conferences to settle disputes and to change agreements. How else could disputes be settled or agreements be changed?

It requires boards of adjustment to decide disputes not settled in conference. All the railroads during the war and most of the great systems to-day utilize or utilized either such boards or similar machinery.

It establishes a Government board of mediation—a machinery established by Congress first in 1898, under the Erdman Act, expanded in the Newlands Act in 1913, and most unfortunately reshaped in the transportation act in 1920.

Finally it provides for arbitration, a policy officially adopted by the Congress upon recommendation by President Cleveland in 1888 and carried forward in the Erdman Act and Newlands Act, then unhappily mutilated in the transportation act.

Each operation of the machinery has contributed for many years to the maintenance of peace and harmony in the transportation service. No drastic, experimental provisions have been added to these tried and seasoned laws. The machinery has been improved as experience has shown weaknesses in operation. The obligations of both parties have been made more definite. If a controversy is not settled by original agreement, or agreement after mediation, it is inevitable that arbitration will be brought about, and all difficulty over appointment of arbitrators is eliminated by the bill. Then the award is made a judgment to be enforced against both parties. The way to preserve peace is plainly marked, an old, well-traveled highway. The employees stand ready to cooperate with the employers. They need not reflect on the intelligence and good citizenship of the managements by assuming that they will oppose the efforts of Congress to bring both parties into this cooperative program for the benefit of all the people.

In order to demonstrate how closely this bill follows the precedents of past successful legislation and how carefully its provisions conform to settled legal principles, there will now be presented an explanation of the machinery of the bill, with a short comparative analysis of its legal structure and an outline of the basis for its various provisions.

That presentation, Mr. Chairman, will be made by Mr. Donald R. Richberg, counsel for the allied railway organizations.

The CHAIRMAN. If there are no questions to be asked Mr. Robertson, he will be excused.

(Mr. Robertson was accordingly excused.)

STATEMENT OF DONALD R. RICHBERG, COUNSEL FOR THE ORGANIZED RAILWAY EMPLOYEES.

Mr. RICHBERG. Mr. Chairmen, the statement which I have to present will not take longer, I believe, than 12 or 15 minutes, and then if there are any questions desired to be asked we would be delighted to divide the answers between Mr. Robertson and myself as to the legal questions and practical questions that we are both each qualified to answer.

First, I wish to call attention to the fact that we have prepared a digest of this act, including a chart of the machinery of the act, together with an explanatory statement. We have copies of this for the consideration of the committee and any other interested parties who may desire to see it [presenting papers].

It will save the time of the committee, I believe, if instead of going over the bill section by section, I call your attention particularly to the diagrams which appear on pages 4 and 5 of this pamphlet; and if you will merely have these diagrams before you, then I believe the statement which I will make will be easily followed as to the machinery of the act.

The Howell-Barkley bill (which is given the short title of "the railway labor act") utilizes a machinery to insure industrial peace that has been successfully operated for many years on the railroads. Its provisions and language are largely transcriptions or revisions in minor details of present or past acts. It is essentially a codification of industrial law for the railroads. It is not a radical or even a novel piece of legislation.

This statement will present in summary form:

1. The legal priciples which this bill translates into legal obligations.

2. The legal mechanism created to settle controversies.

3. The legal precedents in previous legislation and judicial opinions supporting the provisions of this bill.

Now, just a word as to the fundamentals, because I think the atmosphere of this law is the most important part of its consideration.

It is recognized that the good order of society rests upon contract, that democratic government enforces primarily the voluntary obligations of a man to his fellow man or to the community. The rights of minorities are protected by the agreement of majorities and the will of majorities is enforced through the expressed or implied agreement of minorities to obey majority rules. Any other theory of government is autocratic or anarchistic.

Therefore any compulsion exerted by Government in a democracy must be based on contract. The mutual obligations of employer and employee which are to be enforced by law must be obligations that arise out of the voluntary agreements of employer and employee. Thus we find that employers and employees have a duty to society and to the Government, as well as to themselves, to "exert every reasonable effort to make and maintain agreements concerning rates of pay, rules, and working conditions, and to settle all disputes arising out of the application of said agreements." I am now quoting from the bill. The statement of this duty in the language just quoted from section 2 is the foundation principle of the railway labor act.

The legal propriety of imposing this duty upon managements and workers in the transportation industry can hardly be questioned in view of the decisions of the Supreme Court sustaining regulations of industrial relations in many cases, such as the employers' liability act, the full crews' act, and finally the Adamson Act, upheld in Wilson *v.* New (243 U. S. 332).

After establishing this fundamental obligation, it becomes necessary to provide the means for obtaining and changing agreements and for adjusting disputes arising under agreements. The employer is technically a corporation but essentially several thousand stockholders, who act through representatives of their own choice. The employees number thousands, who also must act through self-chosen representatives. Therefore, in order to make and maintain agreements, there must be—quoting now from the bill—"conference between representatives designated and authorized so to confer, respectively, by the carriers and by the employees," which is the second duty imposed, in the language just quoted from section 3.

Fair-minded persons will agree that such representatives should be, "designated by the respective parties in such manner as may be provided in their corporate organization or unincorporated association, or otherwise, without interference, influence or coercion exercised by either party over the self-organization or designation of representatives by the other," which is the next requirement of section 3. No intelligent man will permit his negotiator, his lawyer or his agent to be selected by the other side; and such a fraudulent representation is sufficient ground in law to invalidate a contract. These labor contracts must be honestly made if men are to be expected and to be compelled to abide by them.

These provisions for collective bargaining, as the basis for peaceful and continuous transportation service, do not require the railroads to experiment with any new industrial relations. Such agreements are the practically universal basis for railroad operations to-day—and have been for decades. But controversies over these agreements that threaten the interruption of service arise in two ways and an appropriate machinery is provided for settling peaceably each class of disputes.

It is desirable to bear in mind, in the consideration of this bill, that there is a different machinery, to a certain extent, for each class of disputes and grievances over the application of agreements and changes in agreements. Now, taking up the grievance disputes.

First, disputes over the application of existing agreements, commonly called "grievances."

Second, disputes over proposed changes of agreements. Grievance disputes are largely of a technical nature. To understand and to adjust them requires technical knowledge. For many years the most effective method for settling such disputes has been found to be a bipartisan or equipartisan board of practical railroad men, representing management and employees, but removed from the local atmosphere of disagreement. Such boards have been established by individual roads, by groups of roads, and during Federal control there were three national boards which adjusted practically every dispute without any resort being necessary to the appeal which might have been taken to the director general.

Mr. Walker D. Hines testified before this committee, January 24, 1922, that there were less than 12 appeals in a total of about 6,000 cases. He officially reported to the President as follows:

> The work of these boards of adjustment has been eminently satisfactory. Each board has been composed of an equal number of expert representatives of the management and expert representatives of the employees. With full practical knowledge of the problems the members of those boards have approached their work with the desire to do justice and with the recognition of the importance of reaching an agreement. The result is that in the several thousand cases which have come before the three boards which have been created there has been an agreement in practically every case.

The effectiveness of such boards depends upon a high-grade personnel. To obtain maximum efficiency at minimum expense, the bill under consideration provides in section 3 (b) the smallest practicable number—four national boards:

Board No. 1 covers train service; board No. 2 covers shop work; board No. 3 covers clerical, maintenance of way, and stationary engine work; board No. 4 covers marine work.

It will be seen that these are classifications of similar employments, with the exception of board No. 3, which is a miscellaneous classification. These groupings follow the precedents of the previous national boards. On each board there will be a management and a labor representative for each craft in the group of crafts, a thorough technician supported by technicians of similar knowledge.

To add just a word to that let us take, for example, the train-service group. The train-service group includes, as the committee will observe if it will turn to page 13—that is the boards of adjustment as grouped includes engineers, firemen, and hostlers, conductors, trainmen, switchmen, and yard train service men, telegraphers, and train dispatchers. Those are separate crafts. Each craft has its individual problems, and yet they are all engaged in train service. Therefore, the representative of one craft has a natural knowledge of the functions of the other craft, so that when they are grouped together on a board you have one eminently equipped technician and a representative of the management on all, the same sort of men, and then you have on the board technicians in similar work.

For each position two men are to be nominated by the carriers and two by the employees, and the President appoints, with the consent of the Senate, thus adopting the procedure provided for naming the present labor board.

Only grievance disputes go to these boards, and in the light of experience it can be confidently asserted that only rarely will a case arise which will not be settled by these boards. In such a case there are provisions for mediation by a Government Board of Mediation and Conciliation, and finally for arbitration, if mediation fails. As this machinery of mediation and arbitration will be required largely to settle disputes over changes in agreements, it will save time to summarize now the means provided for bringing about changes.

Changes of agreements: An agreement that can be changed without notice is really no agreement at all. Certainly the power on the one hand and fear on the other hand of arbitrary change will breed discord, not harmony. Therefore it is provided in section 6 that either party "shall give at least 30 days' written notice of an intended change" and that a time and place of conference shall be agreed upon. Thereafter a change is prohibited until the machinery for peaceful

adjustment has been fully utilized and a penalty of double damages is imposed for a change without notice or prior to final action under the act.

I will add to that a reference—for example, the Canadian industrial disputes act, which has operated very successfully in Canada under similar machinery, preventing any action being taken until a full opportunity has been had for negotiation of a dispute.

This prohibition against arbitrary action is a clear necessity in founding industrial peace upon contractual obligations. While an agreement is in force, of course, it should not be changed without consent. If an agreement is about to expire then either party desiring a change should be required to give ample opportunity for negotiation of a new agreement.

The purpose of this provision is, as you will see, to prevent a situation drifting up to the date of expiration of an agreement and then peremptorily demanding, the one side or the other, a change in the agreement. Under the provisions of this bill, if either side wants a change, since 30 days' notice must be given if they want a change to take place at the end of the existing agreement, they must start negotiations beforehand.

If conferences fail to bring agreement, then either party may invoke the services of the Government Board of Mediation and Conciliation or the board may proffer its services.

The Board of Mediation and Conciliation is a board of five, to be appointed by the President, with the consent of the Senate, as provided in section 3 (c). Its functions are the same as those of the board established by the Newlands Act. Its final action, if it can not bring about agreement, is to propose arbitration, which, although voluntary, can not well be refused by either party with the hope of any result except general condemnation and public opposition to its demands.

It is a board entirely of disinterested public representatives, and not composed of representatives of either side, or nominees from either side. It is a public body, similar to the previous board of mediation and conciliation created under the Newlands Act.

If arbitration is necessary there must be a written agreement, the essential provisions of which are set forth as in the Newlands Act, including an agreement to abide by the award.

I may digress here to point out that in instances with which I have been personally connected, in matters that came before the Railroad Labor Board, the proposal has been made, will both sides agree to abide by the award? And it has been the general policy, as far as I have come in contact with the carriers, on that question to refuse to make any such agreement in advance.

The board of arbitration may be composed of either three of six members—that again follows the Newlands Act—and if the one or two neutral arbitrators are not agreed upon promptly, the board of mediation is authorized to appoint them. The provision is that either party shall choose one, if it is a board of three or two if it is a board of six, and the sixth arbitrator shall select a neutral arbitrator. If within 15 days, in case of a board of six, or 5 days in case of a board of three, they have not been able to agree then the Board of Mediation is empowered to appoint, and that does away with the greatest difficulty in the arbitration of industrial disputes—that is,

the matter of getting a neutral arbitrator because here it is a Government body which is empowered absolutely to appoint if they do not promptly agree. When the award is made, it is to be filed in the United States District Court and a judgment entered upon it, unless a petition is filed to set it aside. Such a petition may be granted only on these grounds: (1) That the award does not conform to the act; or (2) That it does not conform to the agreement to arbitrate; or (3) That it was procured by fraud or corruption. And I may say that that is simply a condensation of the general law in the courts on the subject of arbitrary awards, as to the proper legal basis upon which they may be set aside. The arbitrary provisions are almost literally transcribed upon the Newlands Act with a few minor improvements.

The proposed act is a codification of existing law.

A careful annotation of the bill which is available for use of the committee discloses that approximately 90 per cent of the contents of the bill is a transcription or adaption of existing law and that the small portion which may be described as "new" consists largely of improvements in detail, the desirability of which has been shown by experience under existing laws. There are a few provisions—and I have endeavored to take those provisions out in this presentation and call them specifically to your attention—which may be regarded as new in railroad legislation, but attention has been directed to them in the foregoing analysis, and it will be noted that they do not create any new factors in industrial relations but merely provide for such procedure as has been long utilized and has proved its value in promoting a mutually advantageous cooperation between employer and employee.

It should be observed that although this bill is indorsed by organized labor inside and outside the railroad industry, it imposes no obligation upon a railroad to maintain what is called a "closed shop"; it grants no special privileges to any particular labor organization; it leaves all railroad employees just as free as railroad managements to select their own representatives and to enter into agreements with full liberty of contract. It imposes equal legal obligations on both parties to respect their agreements and provides a machinery for Government aid in settling disputes which may be confidently relied upon to end the possibility of interruptions to interstate commerce through industrial controversies.

In support of the validity and the anticipated judicial construction of the provisions of this bill, a brief of several hundred pages of citations of authorities has been prepared after several months of research by various attorneys, which will be available for the committee in consideration of any legal questions. It should not be claimed that the bill is perfect; but every care has been taken to keep it free from serious flaws, from ambiguous or uncertain phrases, and from violations of sound precedents and established rules of law. Under congressional consideration it may well be improved, but we desire to express the hope that it may not be substantially altered, as it embodies the earnest constructive effort of organized labor, aided by disinterested advisors to present a unanimously approved program to insure whole-hearted cooperation between employees and their employers in the performance of a most essential public service. Two million railroad employees, combined with the organized workers

in other industries, comprise with their families at least one-eighth of the population of the United States. They therefore speak for a large fraction of the public interest. No persons are more concerned with the continuity of transportation service than those workers whose livelihood, whose pursuit of happiness, is dependent on that service. Their support of this bill should, therefore, be most persuasive that its enactment will promote the efficient and continuous operation of the railroads.

Senator DILL. I want to ask one or two questions. As to this provision for double damages, in cases of violation in not giving notice, etc., how do you propose to enforce the double damages against the employees?

Mr. RICHBERG. As to the changes in rules and wages and working conditions, Senator, we have been unable to determine in what way employees can change rules, or working conditions, or wages; in other words, the man who signs the pay check determines the wage and the man who receives it can not possibly change it. The man who is in charge of the shop, or the operation of trains, the management's representative, determines the rules of operation and working conditions, and they can not be changed by the man who is operating the trains. So that while the employees, as an organized group, can not under the provisions of this act repudiate a contract and attempt to enforce a change by arbitrary action, because that would be a violation of their contract, the only way in which damages can accrue without a man being able to protect himself is in the case of the employee; in other words, his pay check may be arbitrarily reduced. Take, for example; the situation which was the cause of the shop craft strike, one of the main causes of it was that the railroads contracted out entire shops without notice and the men were then told that if they wanted employment they would have to go to the private contractor, who then offered them a wage and working conditions entirely different from what had been in effect on the road. There was an example of arbitrary action.

Senator DILL. But the point I wanted to get clear was whether or not it was in the minds of those proposing this legislation that if the organizations were going to be liable for breaking the contracts by their members there could be no damages collected; that was not your idea?

Mr. RICHBERG. The thought in the act was that the organization itself is liable in two ways: In the first place, if it has made a contract and as an organization attempts to bring about a change in that condition, or violates that contract that as an organization it is, in the first place, liable, and in the second place, it could be restrained from any such action by order of the court.

Senator DILL. It could hardly enforce double damages?

Mr. RICHBERG. I do not see how you could enforce double damages, and that is why we plainly put in the provision in paragraph B of section 6, based only on the carrier's liability.

Senator DILL. Further, regarding the notice of expiration of the contract; these contracts are made for how long ordinarily?

Mr. RICHBERG. That depends entirely on the roads. I think, normally, for a year.

Senator DILL. And if at the end of the year neither side gives notice, it is your understanding, under this law, the contract would continue for another year?

Mr. RICHBERG. No; my understanding is it would continue until a change was brought about; that is, it would continue somewhat like holding over under a lease that had expired. There being no other agreement negotiated, it would be further extended.

Mr. ROBERTSON. I might supplement that by saying that the agreement to arbitrate provides that both parties agree as to the length of time the award will remain in effect. The practice now is in written agreements to have both parties write in what is known as a terminating clause, which continues it in effect subject to 30 days' notice.

Senator DILL. I was speaking of contracts where there had been no arbitration, where contracts were going to expire, and the agreement was that they must give 30 days' notice, and my question went to this point, whether or not if there were no notice it was understood there would be no new contract, or whether the old contract would simply continue?

Mr. ROBERTSON. On railroads where agreements are reached without entering into arbitration the same situation prevails. It is the practice to-day, to write in a certain terminating clause which continues the agreement in effect for a year, subject to 30 days' notice.

Senator DILL. And if they do not give notice it goes right on?

Mr. ROBERTSON. Yes, sir.

Senator DILL. I think I noticed that the judgment of the board is to be filed in the court?

Mr. ROBERTSON. Yes, sir.

Senator DILL. Or the award in the court?

Mr. ROBERTSON. Yes, sir.

Senator DILL. Was that so under the Newlands Act?

Mr. RICHBERG. Yes, sir; that is the provision under the Newlands Act. We have simplified the procedure. The provision in the Newlands Act was rather blind with regard to its being a bill of exceptions, etc. We have simplified that so that such judgments may be entered.

Senator DILL. There is another question which it seems to me will arise, as to this selection of the board of conciliation by the President. There is no limitation upon whom he shall appoint or whom he shall select?

Mr. RICHBERG. The only limit upon that is that they shall be men wholly disinterested. That is the constitution of the board as provided on page 14 of the bill. The only prohibition is that—

> Any member of the board of mediation and conciliation who, during his term of office, is an active member, or is in the employ of or holds an office in any organization of employees or subordinate officials, or who holds any office in or who is pecuniarily interested in any carrier coming within the jurisdiction of this act, shall at once become ineligible for further membership upon the Board of Mediation and Conciliation.

Senator DILL. Of course every arbitration board may be made up of one group or the other, but I take it your idea is the President will have fairness enough to pick the proper board.

Mr. RICHBERG. The idea is that the President will do what has been done in the past, and the action has been most happy.

Senator DILL. You are simply taking your chance?

Mr. RICHBERG. Yes, sir; that is, that the President will do all he can to preserve peace.

The CHAIRMAN. In this diagram that you have submitted, in this digest—the first diagram in the third subject—you say, "Arbitration proposed as final action." I do not understand from your statement that arbitration is compulsory. You say "proposed."

Mr. RICHBERG. Yes, sir; that is correct. Arbitration is not compulsory except by the pressure of events, and the theory of this act is—and it was to some extent the theory for passing the transportation act, title 3—that if a situation is developed whereby the compulsion of public opinion and of the situation itself forces the parties to attempt to agree, and if they can not agree then to submit their differences to an impartial tribunal, that that is, as a matter of fact, the most effective compulsion that can be worked out. I will say frankly that the act is drawn on the theory that nothing is accomplished in matters of this kind by attempting to swing a club, except the compulsion to live up to the agreement and to make agreements.

The chief objection, the chief difficulty, I may say, in many industrial controversies with which I have had personal experience in getting arbitration is not the objection to arbitration but the difficulty of getting arbitrators This act provides an absolutely certain method of obtaining the arbitrators, and therefore the principal difficulty in getting arbitration of industrial disputes is eliminated. I have known cases where the attempt to get neutral arbitrators extended for six to nine months, with man after man suggested and rejected by one side or the other, and I think all those who participate in these controversies will agree that that is one of the main if not the chief difficulty in getting arbitration of industrial disputes.

The CHAIRMAN. You would not say that the Labor Board has been very successful in enforcing its decrees by public opinion, would you?

Mr. RICHBERG. I think the difficulty with regard to that, if you will permit me, is that the Labor Board is an impossible combination. I may quote the language of one whom I think I can properly refer to—Secretary Hoover—in that connection to the effect that there is a fundamental inconsistency in attempting to combine the functions of a mediator and an arbitrator in the same board. Now, the Labor Board, not having power to enforce its decisions, is really a mediating board, yet being given the power to sit as a court or as a tribunal and enter its decisions, it becomes an arbitrating body, and yet its decisions are not enforceable. The trouble with the situation is that if you have a board of arbitration which hands down any decision which is honest, the parties have agreed to abide by it, and they get established and go ahead, but the next time an arbitration dispute comes up we do not have to go back to the same board because a new board of arbitration is constituted for a new controversy; therefore their hope and faith in arbitration remains good. But where a board like the Labor Board arbitrates controversy after controversy the inevitable result is that one side or the other feels they are not holding the scales even and then the board of arbitration breaks down. That, I think, is one of the fundamental causes for the failure of the Labor Board.

The CHAIRMAN. Can you point out any case where public opinion has influenced the action of the Labor Board?

Mr. RICHBERG. Has influenced the action of the Labor Board? I do not know whether I quite get your question. Do you mean where the board has yielded to public opinion?

The CHAIRMAN. Yes.

Mr. RICHBERG. Well, I do not know whether it would be called public opinion or not, but I think the board has repeatedly yielded to the pressure of what is called propaganda. The records of the board are full of resolutions and memorials presented by public bodies, and other agencies, telling the board what they thought their duty was, and I think there has been pressure throughout, let me say possibly on the part of the employing groups in the country, following 1920, to reduce wages, that had a most powerful effect on the board, so much so that under that pressure the board reduced wages so that their actual buying power was less than it had been before the war.

The CHAIRMAN. Public opinion is a rather intangible thing, is it not?

Mr. RICHBERG. And yet a very powerful agency.

The CHAIRMAN. It is if you can harness it. But how are you going to harness public opinion?

Mr. RICHBERG. I think the answer to that is in the history of arbitration under the Newlands Act. We can present if desired a complete history of those arbitrations, where it will be found that in case after case matters of immense moment and of tremendous importance in money involved, and in questions involved, were submitted to arbitration after the Government mediators had come upon the job and failing to get the parties together, had then induced them into arbitration. I think Mr. Robertson will bear me out in saying that that was the universal result of mediation. In other words, I believe there is hardly a case in which the mediators failed to bring about arbitration in a matter of general importance. Am I correct, Mr. Robertson?

Mr. ROBERTSON. The only one I know of in the history of mediation was the 8-hour day. The President of the United States, if we are to accept his statement as representing the public, agreed with the employees that they ought not to arbitrate.

The CHAIRMAN. I am still at a loss to arrive at a conclusion as to how you are going to get arbitration if the other side gets its back up and refuses to arbitrate the eight-hour day.

Mr. ROBERTSON. Our experience in dealing with labor disputes under the Erdman and Newlands Acts, as I have said, and at the expense of repeating, is that there is but one case that I have any record of in mind where both sides finally refused to arbitrate. I have seen mediators on the ground for three or four weeks at a time, mediating between the parties and trying to get them to arbitrate a question, and, as I say, I have but one case in mind where they did not succeed in doing it. I know of one case, the firemen's arbitration in 1913, in the eastern country where there were 54 railroads involved, the firemen stood on the ground that they wanted to arbitrate under the law. We had just seen the close of an arbitration of about an equal number of railroads in the eastern country by the engineers and managements, wherein they had a board of nine members who heard the case, most of them public members. They took an adjournment from time to time, and after the hearing was closed it was many weeks before the decision was made.

Testimony, of course, was introduced, not as required under the regular arbitration laws, under oath, and the firemen when they reached the point where they were willing to arbitrate, said they

would arbitrate under the law. They knew the testimony that was introduced would be introduced under oath, and the arbitration would have the sanction of law. But the railroads declined to do that. They wanted to follow the system that they had followed in the case of the engineers, but the newspapers of New York and the public sentiment seemed to go against them we got our side to the public through the press, and in about a week or ten days they finally succeeded in getting arbitration under the Erdman Act, with the support of the mediators who had been on the ground for quite some time. Public sentiment has played quite an important part in bringing parties together through mediation and conciliation proceedings, but not so much in the present situation to-day. It seems to be quite a different proposition to-day because the Labor Board makes decisions, and there is quite a difference between trying to convince the public that the decision is right and convincing the public in advance that the parties ought to arbitrate a controversy that seems to threaten the interruption of interstate commerce, and mediators have been very successful in that.

There is one thing, Senator, in connection with mediation proceedings that I think is important at this time, at least it has always seemed to play a very important part in bringing parties together. When you speak of the pressure of public opinion under the Newlands Act and the Erdman Act, when railroad managers sit on one side of the table and the representatives of the employees on the other, negotiating a question of wages and working conditions in which both parties are very deeply interested, when they approach the point of terminating the negotiations, or reaching a settlement, there never has been a time that I know of when both parties did not appreciate that public opinion was a very strong factor in their negotiations. No leader of organized labor wants to go contrary to the public detriment to try to sustain or support a position that is inconsistent.

Neither do I believe that a railroad manager wants to do it, nor will do it, if he is made to realize by a representative of the Government just what there is involved in the controversy, and his responsibility in connection with trying to reach a decision. To bring about a cessation of interstate commerce and place the responsibility on a railroad manager, or upon an executive of an organization, is quite a serious problem, and neither one of them, according to our experience under the Erdman Act, will assume to do it unless they have a very meritorious case, and usually the man who has been in the business all his life can see the merits of a practical case and knows about how far he can go before he permits the railroads of this country to be tied up. The result is the mediator brings them together.

Mr. RICHBERG. May I add just one suggestion that has occurred to me. It is quite well recognized, I think, in the settlement of disputes of this character, that one factor that helps make the parties agree is the very lack of a definite tribunal of appeal.

Now, one of the difficulties in the Labor Board situation is the fact that here is a channel immediately provided for an appeal in the event of a failure to agree in conference. The whole result of that on the stubborn man is to have him sit back in conference and say, "I won't discuss that matter; I will appeal," because he has a tribunal to go to. When you have a situation where there is no

tribunal to go to, no definite tribunal, then always there is pressure for men to settle their own affairs.

Senator DILL. May I interrupt you? I want to ask whether this legislation does not propose to rather settle all disputes that possibly can be settled without appealing to a third party at all?

Mr. RICHBERG. Exactly.

Senator DILL. Instead of having to set up a court that can be gone to?

Mr. RICHBERG. Yes, sir; that is precisely the situation.

Senator DILL. It seems to me that is the theory of this whole proposal, to put this labor situation back where it used to be, and where a third party would not be called in except when absolutely necessary, and when called in it would be a new party, new to the dispute and new to the situation, rather than a court that sat regularly.

Mr. RICHBERG. That is the theory, and it has been successful. There is one qualification of that theory, and only one, in this law, and that is in the establishment of boards of adjustment. Those boards of adjustment do provide a tribunal to which a man may go with a disagreement out of conference. But note the character of the tribunal. It is not a tribunal with neutral members; it is simply a higher tribunal, and the situation is equally balanced again, and the tendency again will be upon the part of men to settle their own matters in conference, if they possibly can, rather than to simply carry it on to another bipartisan board that must agree in order to settle it. But you have this fundamental reason for the establishment of these boards of adjustment: Grievances under the application of the agreement are in a large number of instances of a petty character, and yet you often have the intensity of feeling at the local point where the grievance arises that prevents men from looking at it in a clear, judicial attitude. You take the grievance out from that atmosphere into a national tribunal where the men have none of the feeling of the local atmosphere, and where they are only interested in good practice. What is good practice under this agreement, and what is the fair application of it, must be immediately taken away from the difficulty that prevented the settlement there which makes it practically inevitable that you would get a settlement, as was shown by the Federal board and those other boards that are operating now on the railroads.

The CHAIRMAN. Do the representatives who present this bill object to compulsory arbitration?

Mr. RICHBERG. Yes, sir.

The CHAIRMAN. Just enumerate the reasons for that, if you please.

Mr. RICHBERG. I would like to make the statement first and then ask Mr. Robertson to supplement it. I wish to make it from the legal standpoint, in a way.

I think the difficulty with compulsory arbitration arises out of, or I think the reason why compulsory arbitration is regarded often as a panacea, arises out of a false analogy. I have heard lawyers paritcularly say, "We have courts to settle disputes between parties, and why can you not have industrial courts to settle industrial disputes?" In answer to that, I believe that the lawyer's point of view is also the practical answer—the courts settle disputes largely on the basis of contract. A court enforces obligations on the parties that are either theirs by contract or by the broad contract of society, as for

example, in negligence cases where a man is held responsible for the injury he does to another, it is an implied social contract. But it is all on the basis of contract. It is all on the basis of the used and accepted ideas of right and wrong.

When a man has entered society, he has entered into certain obligations. When he enters into a contract with his fellows, he puts certain obligations in writing, and all that is presented to a court, and the court has to decide upon the contractual rights as between man and man; that is not a difficult decision, and in the majority of instances the verdict of the court is a verdict of money damage. The minute you step into the field of industrial relations, you have opened up an entirely different character of controversy, and that is why the so-called industrial court is not a court at all. It is a law-making body and that is the objection to anything in the nature of an industrial court, or of compulsory arbitration, because you are forcing men to submit themselves to lawmakers. The problem which is presented is an economic, political, and social problem. It is not a problem of contract. What wage a man should have, what conditions he is working under, are all social, economic, and political questions. There is no law on that; that is the point I am trying to make.

The CHAIRMAN. Yes, but just there, you spoke a while ago about going to a tribunal for a decision on an implied, ordinary contract where a man does personal injury to another through accident, and claims personal damages. Do you not think there is an implied social obligation upon the railroads and the employees to give continuity of service?

Mr. RICHBERG. Yes, sir; I do.

The CHAIRMAN. Well, if you admit that that is an implied social obligation upon the railroads and employees, why not submit that condition to arbitration?

Mr. RICHBERG. Well, the difficulty of that situation, as I tried to point out, is that you do not submit an accepted rule. There is no rule to govern such arbitration. You are not asking the court to apply the accepted rule of law. You are asking the court to make a decision that is essentially legislation as to what is a fair wage, for example, at a certain time, as to what are fair conditions of service. Now, if the parties voluntarily agree that they will submit that question, then they should be bound by their agreement and their contract, but to compel individuals to submit to such a determination is to take away from the parties—and the condition applies to both sides—the control of their own business, and the control of their own lives. You see, the control of their own lives, their independence, is what we have called individualistic society. I say frankly that it is a complete step, and a long step, towards socialism.

Compulsory arbitration, if I may point out, simply requires that the Government immediately enter into what is the essential field of socialism, because as soon as the Government fixes a wage for example, then the Government must, on the other hand, fix prices; you can not fix arbitrarily the wage a man shall be paid without at the same time determining how much that wage will buy, and then you are entering into the field of price fixing, and you have essentially put the Government into control of all of those things.

I have protested repeatedly to my so-called conservative friends that their propositions as to compulsory arbitration were the most

radical propositions that I ever listened to from men of their general trend of mind because we could not take any step in that program without being led step by step into the adoption of the whole program.

I think that is the fundamental difficulty in the Government going into such compulsion. You immediately put your Government supreme in industrial relations, and you are not going to stop, and you can not stop, with the railroads, because the same story must inevitably lead into every matter of social necessity. The railroads are not the only industry in essential public service in this country to-day.

The CHAIRMAN. Then you do not agree that the Government should regulate the rates and the returns the railroads will get upon their property?

Mr. RICHBERG. I think the requirement of public service is one which we have found it was necessary for the protection of the common good to impose to a certain extent, and I will point out that it has only been reluctantly—step by step—that the Government has gone into the field, even with regard to the railroads.

Now, the ancient obligation of public service is, of course, of long standing. It goes back centuries, and that has really been, if I may so say, in a measure, a socialistic activity of government for many centuries. It has controlled all essential public service, and is based on the theory that that is the essential duty of the state which it has delegated to private individuals, and having been delegated to them the state it must still control. That is, I think, the essential difference that makes for a proper distinction between industrial relations in the running of the roads and their public service obligations.

The CHAIRMAN. Do the carriers, from your observation—and I ask this simply for information—object to compulsory arbitration as vigorously as the employees do?

Mr. RICHBERG. I do not know whether I can answer for the carriers as to that.

The CHAIRMAN. I mean, from your observation.

Mr. RICHBERG. I have heard more arguments in favor, I suppose, of compulsory arbitration from the standpoint of the carriers. I think, frankly, if I may make bold to express such an opinion, it is a very short-sighted attitude for gentlemen who do not believe in socialistic doctrines, but I think it has been advocated to a certain extent.

The CHAIRMAN. Have you any further statement that you desire to make, or are there any further witnesses?

Mr. ROBERTSON. Mr. Chairman, that closes our case.

The CHAIRMAN. The committee will now adjourn until Friday, March 28, in order to allow the representatives of the roads an opportunity to prepare their presentations.

(Whereupon, at 12 o'clock m., the subcommittee adjourned until Friday, March 28, 1924, at 10 o'clock a. m.)

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ARBITRATION BETWEEN CARRIERS AND EMPLOYEES—BOARDS OF ADJUSTMENT

FRIDAY MARCH 28, 1824

UNITED STATES SENATE,
SUBCOMMITTEE OF THE
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The subcommittee met pursuant to adjournment at 10 o'clock a. m., Senator James Couzens (presiding).

Present: Senators Couzens (chairman), Dill, and Gooding.

The CHAIRMAN. The committee will come to order. Mr. Thom, are you ready with your next witness?

Mr. THOM. Yes, Mr. Chairman. I will introduce Mr. Holden, chairman of the executive committee of the Association of Railway Executives, as the first witness.

STATEMENT OF HALE HOLDEN, CHAIRMAN EXECUTIVE COMMITTEE, ASSOCIATION OF RAILWAY EXECUTIVES

Mr. HOLDEN. My name is Hale Holden; I reside in Chicago; and, as stated by Mr. Thom, I appear here as chairman of the executive committee of the Association of Railway Executives, an association which represents substantially 95 per cent of the Class I railroads of the country, and the statement which I shall present is the result of consideration by the executive committee of the association of the pending bill.

Senate bill 2646 has been presented to Congress by a number of railroad labor organizations representing a substantial part, but by no means all, of the employees engaged in transportation service. This bill is stated to be the result of 18 months of study by these organizations, but without conference or public discussion with either railroad managements or with the public. It is, therefore, obviously a partisan measure.

It proposes radical changes in present established methods of dealing with railroad labor questions; and, in certain vital and important features, principally affecting the public interest, it proposes backward steps, which, because of the predominant public interest, I assume Congress will examine and consider with studious care. It is fair to say that no more important question relating to transportation matters is pending in Congress to-day than that raised by this measure. The public has long since come to realize that it is as vitally interested in the maintenance of stable and satisfactory relations between the carriers and their employees, and in the cost of the service, as either of the parties directly involved.

Railroad wages directly paid in the operation of the carriers of the country constitute the largest part of the expenses of operation. This is shown by the fact that in the year ended December 31, 1923, the total expenses amounted to $4,898,184,000, of which the direct wage expenditure attributable to operating expenses only was $2.732,853,000. In other words, out of each dollar of expenses 55.8 cents was directly expended for the operating pay roll. These figures do not include the wages expended for additions and betterments, which are chargeable to capital account and which are necessarily on the same scales of rates and working conditions as expended for direct operating accounts. It is, therefore, apparent that when 55.8 cents out of each dollar of operating expenses is consumed in the wages incident to operating the railroads, the public as well as the carriers and their employees are vitally interested in the methods established for scrutiny and determination of the justness and reasonableness of the wages paid.

Since the first enactment by Congress in 1888 search has continued from time to time for a satisfactory basis for the adjustment of controversies arising out of labor relations on the railroads. The first national law, enacted on October 1, 1888, provided for a voluntary board of arbitration of three members and a decision to be filed, together with the testimony taken, with the Commissioner of Labor of United States, who was required to make the decision public. It also provided that the President could select two commissioners to examine the cause of any controversy and report to the President and Congress the best means of adjusting it.

This decision was at once to be made public in the manner specified, but no arbitrations were resorted to under that law, and substantially no action was taken under it. It was, however, evidence of the beginning of public conviction that the public interest needed protection against interruption in service, and either by arbitration or by the report of the commissioners it was provided that the public should be informed of the merits of the controversy.

On June 1, 1898, the Erdman Act was passed. This measure provided for mediation and conciliation to be entered upon at the request of either party to the controversy by the chairman of the Interstate Commerce Commission and the Commissioner of Labor. It provided for voluntary arbitration at the instance of these mediators in the event conciliation and mediation processes failed to accomplish a settlement. If the commissioners were able to secure the consent of the parties to arbitrate, a board of arbitration, consisting of three persons, was provided for and the award, together with papers and proceedings, was to be filed in the office of the clerk of the appropriate circuit court of United States and was to become final and binding upon the parties unless set aside for error of law apparent on the record.

The CHAIRMAN. Do you mind if I interpose a question at this point?

Mr. HOLDEN. Not at all, Mr. Chairman.

The CHAIRMAN. What was the attitude of the railroads toward the Erdman Act at that time, do you know?

Mr. HOLDEN. As I shall show later, the records seem to indicate that by general consent it was approved by all interests. Of course, that is not completely so; there was opposition from some factions

of the various interests, but as I gather, the record indicates that it was, generally speaking, accepted as a wise step in legislation.

The CHAIRMAN. Can you tell us what caused the change from that procedure?

Mr. HOLDEN. To that following?

The CHAIRMAN. Yes.

Mr. HOLDEN. If you will permit me my statement undertakes to develop that.

This act contained other provisions perfecting the machinery for settling disputes and under it a number of controversies were handled. It remained in effect until it was enlarged and amended by the Newlands Act, which became effective on July 15, 1913.

The Newlands Act established a Commissioner of Mediation and Conciliation with an assistant, and provided that the Board of Mediation and Conciliation should be composed of two other officers of the Government, to be appointed by the President with the advice and consent of the Senate, with the Commissioner of Mediation and Conciliation. It also provided for voluntary boards of arbitration consisting of either three or six, as the parties might stipulate, and a complete scheme of provisions to accomplish, in one manner or another as provided, a peaceful adjustment of, and full public information relating to, controversies arising between the carriers and their employees.

The public records show that the Erdman Act received general endorsement, including that of labor leaders in train and engine service. The letter of those leaders found in the records of that period, contained the following paragraph:

> It seems to be thoroughly conceded, also, that legislation by Congress, so as to provide arbitration in disputes arising from the semipublic duties in which railway men are engaged is not only appropriate, but in line with the policy of Federal protection and regulation of interstate commerce.

This law was enacted only after long continued public consideration and discussion. Numerous measures preceding this enactment had been introduced, and Congress had secured the benefit of extended discussions, not only by representatives of the parties immediately concerned, but by many persons qualified to express the public point of view.

Following the approach of a crisis arising out of an important controversy, which, however, was finally submitted to arbitration under the Erdman Act, Congress entered upon further deliberate consideration of the situation and numerous measures were introduced in each House of Congress, enlarging and amending the scope of the Erdman Act. To illustrate the predominant public interest in this legislation, President Roosevelt in his message to Congress on December 5, 1905, said that every labor trouble involving interstate commerce should be investigated by a Government commission and that the facts in the case should be reported to the public. (Bulletin of the United States Bureau of Labor Statistics, No. 303.) In his message of December 4, 1906, recommending legislation on this subject, he said:

> In this age of great corporate and labor combinations, neither employers nor employees should be left completely at the mercy of the stronger party to a dispute, regardless of the righteousness of their respective claims. The proposed measure would be in the line of securing recognition of the fact that in many strikes the public has itself an interest which can not wisely be disre-

garded; an interest not merely of general convenience, for the question of a just and proper public policy must also be considered. In all legislation of this kind it is well to advance cautiously, testing each step by the actual results; the step proposed can surely be safely taken, for the decisions of the commission would not bind the parties in legal fashion, and yet would give a chance for public opinion to crystallize and thus to exert its full force for the right.

Again on December 3, 1907, President Roosevelt expressed the opinion that the Erdman Act had been a success and recommended that it should be amended by legislation for compulsory investigation of those questions in which mediation and conciliation should fail. Discussions in Congress continued and further measures were introduced, leading finally to the passage of the Newlands Act on July 15, 1913.

I have briefly referred to these three measures enacted in the period between 1888 and 1913, not only as a matter of historical interest, but mainly to bring to mind the careful scrutiny and full discussion which has occurred whenever legislation on this vital and important subject has come before Congress. No one of these three measures was a partisan measure, originating solely from one interest, and no measure was passed until Congress had fully explored all of the facts and secured the widest information and opinion from all interests.

The CHAIRMAN. Does your treatise go on and tell just why those changes were made?

Mr. HOLDEN. Yes, Mr. Chairman; I am starting right at that point now.

Dissatisfaction with the working of the Newlands Act arose in the ranks of labor. It was said that proceedings under it occupied too much time and were too involved and were too expensive both in time and money; that public arbitrators did not understand the technical facts and relations between the parties, and early in the operation of the law national leaders in train and engine service claimed that arbitrations with public members chosen for particular controversies were a failure, both in the award and in the interpretations following it. It is interesting to note that in the four-year period ending June 30, 1917, out of 71 controversies handled by the Board of Mediation and Conciliation under the Newlands Act, 52 were settled wholly by mediation and 6 only by mediation and arbitration, the remainder, including the adjustment reached through the passage of the Adamson Act, being settled in other ways.

Following the passage of the Adamson Act, resort to the procedure under the Newlands Act substantially ceased as the natural result of the entry of the United States into the European war early in 1917 and the methods adopted for the handling of labor questions during Federal control of railroads. It may fairly be said, however, that the controversy over the eight-hour basic pay and time and one-half as punitive payment for overtime service, reflected the dissent by national leaders in train and engine service to the results of arbitration under the Newlands Act and marked the beginning of a new movement.

Railroad managers were not willing to accept the greatly increased cost involved in the demands for 10 hours' pay for the technical 8-hour basic day and for time and one-half for overtime without an impartial and public examination of the merits of these questions through arbitration. They offered to submit these questions to arbitration either under the Newlands Act or by a board to be appointed by the President of the United States and to abide by the results. Public opinion in large measure approved that position. This position did not prevail, however, because Congress enacted the Adamson law awarding the 8-hour basic day in the face of the pending threat of an immediate nation-wide strike and without opportunity to investigate the merits of the question. This method of settling the matter was probably as unpalatable to the labor organizations that were the beneficiaries of the act as it was to the public and to the railroads.

During Federal control the Director General of Railroads granted penalty overtime in road freight and yard service. Both of these important demands, therefore, have been secured by railroad labor without arbitration, and the heavy cost resulting therefrom has by these rather abrupt methods been added to the price the public pays for the service.

Reverting to the three measures above mentioned, which were enacted in the period between 1888 and 1913, namely, the act of 1888, the Erdman Act and the Newlands Act, it should be carefully noted that the public thought had not, during this period, progressed beyond the conception that the interests of the public in these labor controversies and in the relations of the carriers to their employees related only to continuous and uninterrupted transportation.

As I will hereinafter proceed to show, in the labor provision of the transportation act of 1920, the public conception of its interests in the relations of the carriers to their employees and into the scales of wages and rates of pay, made another notable advance. Then for the first time there was statutory expression of the realization that the public is interested, not only in continuous and uninterrupted transportation, but also in the cost of labor in transportation, because of the influence this cost has upon the rates and charges which the traffic of the public must bear. This is manifest from the provision of paragraph (b) of section 307 hereinafter quoted, conferring upon the Labor Board, if of opinion that an agreement reached between the parties, as to wages and salaries, would likely necessitate a substantial increase in the rates of the carriers, authority to suspend the agreement, to inquire into the same and to affirm or modify it.

The transportation act of 1920 was passed by Congress and approved by the President to carry out the emphatic expression of opinion by the public against any further Government operation of the railroads. Government control of the railroads resulted in the main from two causes:

First. Because of restrictive laws which were inappropriate to the necessities of the country in meeting war conditions; and

Second. Because the railroads were unable to secure necessary revenues from increased rates to meet the mounting costs of operation resulting from the rapid change in prices and other economic conditions forced upon the country because of the war.

On this point President Wilson, in his proclamation issued December 26, 1917, relative to Government control of railroads, said:

This is a war of resources no less than of men, perhaps even more than of men, and it is necessary for the complete mobilization of our resources that the transportation systems of the country should be organized and employed under a single authority and a simplified method of coordination which have not proved

possible under private management and control. * * * Complete unity of administration in the present circumstances involves upon occasion and at many points a serious dislocation of earnings.

It was evident that new legislation was necessary to aid the railroads in meeting the conditions which would obviously confront them following the end of Federal control. There is no means of providing railroad service to the public under private management excepting through the revenues which the railroads are allowed to earn, and one of the serious conditions which the railroad companies had to meet following Federal control was the refusal of the Director General to turn the railroads back to private operation with a rate structure sufficient to enable them to maintain themselves.

The transportation act by almost universal expression has been characterized as the first constructive law passed in the program of regulation of railroads by the Government. In all of its important features it has had to function during the brief period of its existence in the presence of conditions probably more disturbed and difficult to deal with than ever before in the history of the country. Every informed person knows that it was enacted to meet a set of conditions that without it would have meant bankruptcy to most of the railroads of the country and almost immediate widespread labor disturbances and interruption of traffic. It is not a measure expressing the views of any single interest, but after hearing from all; it was the result of the long and painstaking work of many Members of Congress engaged in developing it, and it received the approval of Congress by large majorities and of the President of the United States.

Substantial increases, not only in wages but in all costs of materials, fuel, and other expenses of operations had thrown Federal operations into an enormous deficit, but the Director General felt that the restoration of reasonable equilibrium between income and outgo should be left to the peace-time functions of the Interstate Commerce Commission, to be resumed under the provisions of the transportation act of 1920. In like manner he postponed and passed over to the employees and to the railroad companies and to the United States Railroad Labor Board the problem arising out of long-pending demands by railroad employees for further increases in rates of pay. Added to all of the other disturbed economic and social conditions affecting the stability of the institutions of the country, as well as the patience of the people, it is fair to say that no more serious and perplexing set of conditions could be imagined than those that confronted American railroads, as well as their employees, on March 1, 1920, when private operations were resumed. And I assert that the preplexing questions that were met and dealt with during the troubled years of 1920, 1921, and 1922, were handled and adjusted as expeditiously as conditions permitted, and that the fine record throughout the entire year 1923 and to and including the present hour is all the proof of that statement that is needed.

In several features the transportation act did not satisfy the views of the railroads, nor of the shipping public, but in accord with past experience it seems to have carried into Title III of the act more of the views of railroad labor than those of any other interest. We are still in the midst of changing and difficult conditions and a reasonable return to normal economic conditions appears to be still some time in the future. After the sharp decline in traffic in 1921, business in

the country again resumed large proportions and an enormous volume of business was handled throughout the country in 1923. It is expected that the year 1924 will show like results. In consequence the trend of wages and costs has been, during that period, somewhat upward. It is difficult to predict the future because of uncertain conditions. Therefore, the railroad companies feel that the transportation act of 1920 has not yet had a fair and full trial and that, under present changing conditions, important additional legislation relating to the transportation situation might well be deferred.

Railroad labor conditions are more stable and satisfactory than for a long time past. There are no important questions pending which threaten a crisis of any character, nor any which seem to be beyond the ability of the managements and employees to harmoniously deal with.

Railroad freight rates are steadily being readjusted downward; in fact on some commodities and in some portions of the country rates have been reduced more rapidly than the railroads feel conditions justified. Since the peak of rates which was reached in 1920, there have been substantial reductions under the transportation act. The most extensive reductions occurred in 1921 and 1922, and calculations show that approximately $700,000,000 annually since 1922 have been saved to the shippers of the country through these reductions in rates.

Considering these conditions the railroads believe that they have borne and are currently bearing their full share of the burden in the effort to return to normal conditions during this reconstruction period. As a matter of fact railroad rates have been reduced more rapidly than railroad expenses, and railroad wages are still substantially above the index figures showing the relative cost of living. Railroad rates are now but 54 per cent above the pre-war basis and the cost of living is 73 per cent above the pre-war basis of comparison, whereas the hourly wage of railroad employees is 133 per cent higher than the pre-war basis, and the average annual compensation is 95 per cent higher than the pre-war basis.

The United States Railroad Labor Board is the principal feature of Title III of the transportation act of 1920. Title III of this law was enacted in the light of all of the experience since 1888 and was the result in that field of railroad regulation not only of conference, over a considerable period of time, by appropriate committees of Congress with persons in varied walks of life and occupations, in as well as out of railroad service, but also of the accumulated expressions in public records and otherwise on the subject and in the light of the experience under both the Erdman and Newlands acts, in the handling and adjustments of controversies in the past.

Having the benefit of all of these sources of information and advice, Congress in enacting Title III of the act adopted the views of no single interest, but exercised its own informed judgment in creating this law. It did adhere, however, to the long-standing objections of labor to any form of compulsion in the settlement of labor questions, but also recognized the steady increase in the public conviction that the public had the largest single interest in the subject matter and was entitled to and demanded the largest reasonable measure of protection against the serious inconveniences and heavy losses which result from interruptions in service. This law was the

final expression as to the right of the public to be considered and while not restraining the liberty of the individual employee or of organizations of employees to exercise their power to strike, it did impose through the weight of public opinion, the duty upon both employees and management to bring their unadjusted controversies to a public tribunal for examination, so that, by a decision on the merits, the public could be informed and exert the pressure of public opinion upon the parties to abide by the decision. The proposed measure noticeably relaxes that pressure.

While Congress by this law intentionally and by deliberate purpose left obedience to decisions of the Labor Board to voluntary action of the parties, it relied upon these main features:

(*a*) That the duty under section 301 of the title to confer, negotiate, and settle at home was merely the statement of a policy based upon practices in effect before the war;

(*b*) An enlargement of practices already well established, to form tribunals, bipartisan in character to further the effort to compose differences; and

(*c*) In providing for a permanent Labor Board it seems that Congress appreciated the objections heard from labor leaders while the Newlands law was in operation, that the casual public arbitrators selected for a particular controversy were incapable of fully understanding the intricate questions arising out of railroad schedules and conditions of service, but at the same time recognized that in major questions out of which interruption of traffic was threatened and increases in the expenses of the railroads were involved the public should have a voice and a direct means of understanding the controversy by a seat on the board. Congress, therefore, adopted the scheme of a permanent tribunal that could educate itself and become expert in its methods and conclusions by learning how to speak the same language and understand the same phraseology used in railroad service.

In the main, therefore, Congress did four things in Title III of the transportation act:

First. It established the legal duty of the parties to exert every reasonable effort by conference and negotiation to settle their questions at home and among themselves;

Second. It invited the parties to establish the adjustment board method either on individual roads, by groups of roads, or nationally, as the parties might determine;

Third. It provided a standing and permanent tribunal to hear and determine, and thereby advise the parties as well as the public, as to the correct decision of questions not otherwise disposed of; and

Fourth. It provided a check on the interested parties by giving the public the protection of the Labor Board in the exercise of its jurisdiction to set aside agreements between the parties if by the board considered likely to necessitate a substantial readjustment of rates.

An examination of Senate bill 2646 shows that it is, in its initial features, analagous to Title III of the transportation act, in that it emphasizes the duty of the parties to exert every reasonable effort to settle controversies locally without resort to outside intervention. That is the established practice and is the method promoted and

desired not only by representatives of employees, but also by railroad management.

This bill, however, proposes to adopt the war scheme of national boards of adjustments, whereas the framers of the transportation act were unwilling to impose that obligation upon either employees or railroads. They wisely recognized that there should be the option left both to the management and to the employees, to establish these adjustment boards by agreement and locally or by such groups of roads as might enter into agreement for that purpose, or nationally, as might be determined. The railroads oppose the requirement for national adjustment boards, because boards of that type—

1. Lose contact with local conditions.

2. Undertake to promote unnecessary standardization of conditions without due regard to local differences.

3. Create standing invitations for appeals far distant from the place where the controversy arose.

4. Involve unnecessary expense of time and money not only in maintaining the boards, but also in attending upon them. They may have been fitted to Federal-control conditions, but they are an unwise institution in time of peace, and work against, rather than in favor of, local settlements. No satisfactory reason has been offered for their creation.

Nominations to these boards are provided by this law in a manner which will effectively establish the closed shop on the American railroads.

It is well known that there are more than a majority in many of the railroad crafts that are not affiliated with organizations appearing at this hearing and which do not desire to be represented by them because they have their own established methods of dealing with the companies for which they work. There are at least 19 organizations of railroad employees in the fourth group, outside of system organizations, as shown by the commission's records in Ex parte 72, not included in the definitions of the bill, or in the list submitted in testimony. The proponents of this measure do not represent 2,000,000 of railroad workers, as claimed, but a much smaller number, and there are hundreds of thousands of railroad workers who are not represented by them at all in this proceeding.

On many roads there are well-established system boards of adjustment or other similar agencies which are functioning with entire satisfaction and through which adequate consideration of, as well as attention to, local conditions, is given. On many roads there have been few, if any, questions taken to the Labor Board, and no argument can be advanced that would bear unbiased analysis, for the proposed unwieldy and objectionable machinery of national boards of adjustment among the railroad workers of the country.

A brief reference only need be made to the procedure adopted during Federal control. The Director General of Railroads adopted his own methods and set up his own machinery calculated to deal with the abnormal conditions of that period, but not, I take it, to be seriously accepted as constructive precedents for peace-time operations. The railroads of the country were operated as a single unit by the Government, and all concerned were not only actually in the service of the Government but patriotically responsive to the sentiments of the times. Measures adopted during that period were justified by those

who proposed and carried them through; by the explanation that all concerned were engaged in a single service, and expeditious and uniform methods were persuasively urged as necessary to meet the situation. Naturally the measures adopted to handle labor questions centered in Washington at the offices of the Director General, he reserving to himself not unnaturally the final authority. These conditions, however, brought about for the first time, and as obvious measures of war-time procedure, and of unified Government operation, the establishment of national boards of adjustment. Prior to that period labor movements had been either local to the individual line or by concerted action in the several subdivisions of the country. No reason had, prior to the war, suggested a national method for handling wages or grievances, nor, until the crisis resulting in the Adamson law, of working conditions.

The methods adopted by the Director General must be weighed and appraised by the war-time conditions which gave them birth. It would be an anomaly in the post-war analysis of the varied activities of the Government to find any persuasive precedents for peace-time operations among the emergency methods of war time.

Other witnesses will discuss the questions arising out of the proposal made in the pending bill for national boards of adjustment, in greater detail and with more knowledge than I have of these technical questions, but I do assert from actual personal experience that the existence of the national boards, sitting in Washington during the period of Federal control, tended steadily to defeat the efforts of both managers and men to settle grievances locally and encouraged hundreds of appeals to the boards in Washington, largely of unimportant and even trivial controversies, which both before the war and since have been successfully handled by local methods that have been practiced on all lines, for conference and adjustment of these questions at home.

Director General Hines has been quoted as approving the work of these Federal war-time boards of adjustment and doubtless from the standpoint of the principal Federal officer responsible for the continued operations of the railroads without interruption during the urgency of those times, these boards gave some measure of satisfaction, and as war-time agencies they may have served their purpose. I do not understand the expressions made by Mr. Hines to carry any expression from him as an indorsement of national boards of adjustment, country wide in their operations, as suitable for peace-time conditions. On this particular feature of the proposed bill I invite your cautious scrutiny into all of the facts bearing upon this important and partisan suggestion and urge that you obtain all of the advice possible on this question before you incorporate this war-time practice, by analogy, into peace-time operations and impose it upon all of the employees of the American railroads.

Under the permissive authority of section 302 of the transportation act of 1920 the practice of considering and settling controversies locally and by groups of roads in common territory and operating under like conditions has been very largely adopted. In train and engine service, for example, there are three boards of adjustment to which a large number of important lines have subscribed and under which they operate. On other roads there are established system methods of practices providing the same means

for mutual discussion and negotiation and as to all classes of employees that have expressed the desire that those methods be established.

I assert that it is many years since the relations between employees and railroad management were more friendly, stable, and satisfactory on both sides than they are at the present time, and have been for the past 12 to 15 months. The railroads of the country, in spite of the gloomy comments by Federal Judge Anderson of Boston, quoted earlier in this hearing, handled successfully and without noticeable complaint from any quarter in 1923 the largest volume of traffic in their history, without car shortage or delay and without controversy with or complaint from railroad labor. There possibly has never been a period when the relations between railroad employees and the management have been closer or more firmly grounded upon mutual sympathy and respect. Railroad equipment, tracks, and other facilities are in better condition and rendering better service than for many years, and the fine sample of service which the American railroads have given to the American public since they were able to resume control of conditions after the disorganization resulting from Federal control is largely to be credited to the fine spirit of cooperation and enthusiasm shown by all classes of men in railroad service. Without this joint spirit of effort and service those results could not have been accomplished.

In providing a tribunal authorized to inquire into controversies that threaten interruption of commerce and in making it the legal and public duty of the parties to immediately refer such controversies to this tribunal, Congress took a step in advance and one which I believe it will carefully weigh in the light of the public interest and anxiety over these questions, before it withdraws and returns to less secure methods, such as those which are advocated in the pending bill. Heretofore there had been no public tribunal authorized to inquire into and determine the right of a controversy and thereby inform the public as to the merits of it, unless the parties were willing to agree to arbitrate and established a board of arbitration. In the controversy resulting in the Adamson law, labor was not willing to arbitrate and the public was deprived of the benefit of a calm analysis of the issues and an impartial opinion on the merits of them. Under the pending measure, although it is persuasively urged by labor representatives that arbitration will not likely be refused if that measure is enacted, it may fairly be asked whether Congress will relieve the parties from the duty to appear before a tribunal and enable it to inquire into the facts or leave it wholly to the parties to determine whether they will adopt that course. Every law enacted on this subject since the beginning has been the adoption of amendments not only to provide a better system of machinery for the parties but to more carefully safeguard the interests of the public, and I do not believe that the criticisms upon Title III of this act, as well as upon some of the actions of the Labor Board, will justify a step in retreat and the discard of this feature which is so important in the public interest.

In passing this law Congress took another important step and the proposed bill abandons that also. Railroad operations can not be sustained except out of the revenues earned through the service. However the legislative scheme relating to the establishment and

maintenance of just and reasonable freight and passenger rates may be expressed, it is fundamental that the revenues must provide not only sufficient earnings to pay the expenses and taxes, but also sufficient to sustain the investments in and the credit of the railroad properties. Until Title III was passed, there was no statutory relationship between railroad earnings and expenses, but in the transportation act of 1920 Congress imposed the duty upon management to operate the railroads in an honest, economical, and efficient manner and empowered the Interstate Commerce Commission with certain duties to see that this is done. It went further, however, and recognized that there ought to be some scrutiny of agreements made between employees and management to increase wages or compensation through rules relating to working conditions, or in other words that the Interstate Commerce Commission should no longer be left without some form of public scrutiny over wages and compensation agreements which would affect earnings and bring about necessity for increases in rates.

Congress, therefore, provided in paragraph B, section 307, Title III, as follows:

> The Labor Board may upon its own motion within ten days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of rates of any carrier. The Labor Board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.

In addition, Congress specifically required by paragraph (c) of section 307 that in any decision by the Labor Board relating to wages, "at least one of the representatives of the public shall concur in the decision."

The decision referred to under the provisions of section 301 is the agreement under that section between the carrier and employees reached after the conference required by that section, and this power on the part of the Labor Board to suspend and inquire into these agreements has been made effective by regulations which it has issued requiring all agreements arrived at under section 301 to be filed with it for its information. It was apparently felt by Congress, and with reason, that the parties should not be left to an uncontrolled agreement to increase wages or other forms of compensation, Congress well knowing from past experience that railroad organizations have frequently exerted what is technically called economic pressure upon managements to increase wages, accompanied by threats of strike and the taking of strike votes for the purpose of impressing the management with the seriousness of their intentions and of bringing about concessions and agreements, afterwards termed voluntary, but really in their essence often a surrender, either in whole or in part, by the management rather than submission to an actual crisis.

Lately the tendency of wages upon railroads has been upward, and various classes of employees have been given increases in compensation as the result of negotiation and conference. In certain classes the process is now going on by individual railroads and otherwise. These increases are within the rights of employees and management under the law and result not only from the prevailing spirit

of mutual respect, as shown by these conferences and negotiations, but also by the mandate of section 301 that the parties shall exert every reasonable effort and adopt every available means to settle and decide these questions in conference among themselves.

It may be that some increases in charges for transportation service may have to follow these increases in rates of pay, unless the volume of business substantially increases or by greater economies the necessary balance between revenues and expenses can be restored. Congress placed upon the United States Railroad Labor Board the duty to intervene in the event, in its opinion, these agreements between employees and management appear to involve such increases as may likely necessitate a substantial readjustment in the rates of any carrier, and required at least one public representative on the board to join in any decision reached on this subject. The pending measure destroys this relationship between wage expenses and revenues from rates because it will leave the management and employees free, as under previous legislation, to reach any agreements that they may determine upon, increasing operating expenses accordingly, without the Interstate Commerce Commission or the public having any voice in the matter or even knowledge as to the reasons for the increases.

Under the proposed measure, in the event that the parties do not settle by agreement, as contemplated, they may arbitrate their differences or they may not. If they do arbitrate, it would still remain to be seen whether the results of arbitration boards so established would be more satisfactory to the parties than those under the Newlands Act, or whether these results would be as persuasive to and conclusive upon the shipping public and the Interstate Commerce Commission as the conclusions of a board such as Congress designed the United States Railroad Labor Board to be. As stated, however, if there is agreement without arbitration, there is no form of public scrutiny or control provided in the proposed measure. Arbitration may not be agreed to in all cases and the crisis resulting in the Adamson law which heavily increased railroad expenses is a precedent not to be overlooked. And, finally, it is a matter of the greatest importance for Congress and for the public to determine whether or not they are willing to withdraw from the present advance that was taken in Title III of the transportation act and leave the question of increases in railroad wages to the uncontrolled agreements of the parties or to casual arbitration tribunals that may be agreed upon by the parties.

There is one further consideration to be weighed in connection with Title III of the transportation act. Immediately upon the organization of the United States Railroad Labor Board it entered upon hearings of the delayed and pending wage demands of railroad employees, passed over to it from the Director General of Railroads. With expedition it examined into the questions and heard the parties and on July 20, 1920, it handed down decision No. 2, retroactive to May 1, 1920, increasing railroad wages approximately 21 per cent, or a total, in round figures, of $618,000,000 annually. It held, in reaching that decision, that the increase in prices had left wages for railroad employees below the pre-war standard of living and that railroad wages had not advanced as much as wages for labor in other lines of work. The public was aware of the long-delayed demands of railroad

labor which the Director General of Railroads had failed to act upon, and it was generally anticipated that the first action of the labor board would be to deal with these demands. The increases in rates of pay that were awarded were, therefore, not unexpected.

In the meantime the Interstate Commerce Commission, acting upon the pressing needs of the carriers for more revenues, had also entered upon the hearing which it had inherited from the Director General of Railroads, and which was known as Ex parte 74. It is understood that it had arrived at a conclusion to increase freight rates, but, with the announcement by the labor board of decision No. 2 increasing wages by the amount stated, the Interstate Commerce Commission accepted the situation and made increased rates beyond that at first contemplated in order to meet this additional cost.

It is instructive to bear in mind that all important controversies during the present generation, arising between the railroads and their employees, have grown out of the demands of the employees for increased wages and improved working conditions or for the maintenance of existing wages and working conditions.

The railroads want their employees to have good wages and good working conditions and many of the increases that have been granted have resulted from negotiation and compromise settlement. In some important cases, however, the demands have been beyond the amount that the management felt it should impose upon the public service, or could afford to pay. Mediation and conciliation methods have settled many of these demands and arbitration has settled others, but for many years past these settlements, compromises, and arbitrations have almost invariably added to the amount of compensation, culminating in the increases granted by the director general and the final substantial increase granted by the labor board, amounting, as stated, to approximately 21 per cent, by decision No. 2.

Meanwhile, the country, as a result of the economic conditions growing out of the war, had reached the highest basis of prices and costs in its history and the cost of living had necessarily brought about the highest scale of wages ever before known in American industrial life. No intelligent person believed or believes to-day that these costs are here to stay, and every student of past world disturbances in economic conditions knows, and the compiled statistics show, that high peaks of costs are followed, in the course of time, by gradual reductions in the prices of labor and materials, foodstuffs, and other items of public use and necessity, and, in consequence, by relief from the pressure of the high cost of living.

It is a fair inference that Congress expected that the time would come when wages on railroads, as well as wages in other forms of American industrial life, should be reasonably and gradually reduced as the changing cost of living and other economic conditions permitted.

In the latter part of 1920 the volume of business in the United States rapidly declined and traffic on the railroads was substantially reduced. Insistent demands for reductions in freight rates were pressed upon the carriers and rates upon agricultural commodities were much reduced. The cost of living, as shown by official statistics, showed substantial decline and the management of the railroads found that it was necessary to have reconsideration of the wage scale. This they were unable to accomplish by conference with employees, and the subject was brought before the Labor Board for consideration. Following extended hearings and examination of all the facts and circumstances, the board determined that reductions averaging approximately 12 per cent, amounting annually to about $400,000,000, should be made, defending this conclusion by the statement that business conditions had changed, that there had been a noticeable decrease in the cost of living and that wages for similar work in other fields had also declined. Following this decision there was heard for the first time the beginning of complaint over the functions of the United States Railroad Labor Board, and it may fairly be stated that here arose the principal reason for hostility to this board and the beginning of the demand for its removal.

It appeared that there had been established by Congress an agency that had the courage to reduce wages under conditions which seemed to it proper, as well as to increase them, and unless we accept the view that Congress never contemplated reductions in railroad wages—which view would be untenable—it follows logically that one of the reasons moving Congress to establish a permanent board and a legal duty of the parties to bring their controversies before it for examination and decision, was that an agency was needed to bring about the adjustment of railroad wages downward as well as upward, as future conditions might fairly permit. Congress knew that the freight and passenger rates of the country would have to be substantially increased beyond the level left by the Director General because of the high cost of everything that entered into the operations of the carriers and that the public for the time being would have to submit to these rates in order that the carriers could live and perform their service. The public has only been willing to pay these rates as long as the economic conditions in the country compel them. The most important economic element requiring these rates arose out of the wages paid railroad labor. It may be assumed that the public will not consent to immovable scales of wages when economic pressure is relaxed and conditions fairly permit reasonable reductions in keeping with other reductions in costs of living that may be apparent elsewhere in American life.

If the United States Railroad Labor Board is abolished by the repeal of Title III of this act and the proposed measure is substituted, it is a fair inquiry to know how and in what manner reductions in rates of pay may be accomplished when the time arrives for an inquiry into that subject? Would railroad labor agree, under Senate bill 2646, to arbitrate a question of this kind? It refused to consider the subject in 1921 and if Title III of the transportation act had not been on the statute book, it is quite certain that no arbitration could have been secured by agreement.

In the past, in controversies that were handled under the Newlands Act, labor consistently refused to arbitrate counterdemands on the part of the management and, in the present wage movement now going on, the management has not been able to secure any consideration of major questions which, in its judgment, should be considered, but only those questions which labor has presented for increased rates of pay.

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I am not here arguing the merits of these questions, nor predicting a movement for the reduction in rates of pay. On the contrary, as stated before, the recent tendency and the present tendency seems upward. But no existing scheme of legislation should be abandoned for one which makes no provision for the protection of the public interest, as well as that of the carriers, for an examination of these questions when the time does arrive, and no scheme of legislation should be adopted in lieu of the present statute which will obviously prevent public examination and determination of that question at the appropriate time. If that be done, the public will come to learn that in the repeal of Title III of the present law it will have taken a step backward and that an important measure of protection secured by the present law has been surrendered.

There is an obvious difference between the labor law and the Labor Board. The law may be the best scheme of legislation available, and the Labor Board may have failed to function under it in a way that it should. Examining the actions of the Labor Board, however, I do not believe that it is subject to the acrimonious and destructive criticism that has been leveled against it, but even if it is, there is a way to correct that situation and still continue the present law for further trial and under more settled and stable conditions.

The Labor Board, when appointed, was confronted with a more severe set of conditions than perhaps any new tribunal in the history of the country, and on a subject probably more sensitive and difficult to deal with than any other. As before stated, it inherited long-delayed demands for readjustment in pay, with the natural impatience in the attitude of railroad workers. It had a new law under which to function and the public members were inexperienced in the technical field of their duties. The questions immediately presented to them were not only highly technical in character, but also involved puzzling economic conditions resulting from the war. There soon after arose an urgent demand for reductions in freight rates, especially on agricultural products and livestock. The labor law enumerated among other relevant circumstances to be taken into consideration, seven outstanding features bearing upon the justness and reasonableness of wages, and drew necessarily into consideration not only the factors entering into the cost of living then present and immediately in the future, but also a comparison of wages in similar lines of work in other industries, questions arising out of the hazards of employment, training, skill, and responsibility involved, as well as an examination of inequalities resulting from previous wage orders or adjustments.

As stated, probably no public body was before confronted with so many difficulties and sensitive conditions immediately upon its organization. The railroads hold no brief for the Labor Board and were not consulted in the final framing of this legislation, but I insist that it is entitled to a fair appraisal of the conditions with which it had to deal, as well as an unbiased examination of its course of action. It is always to be remembered that Congress intended compliance with the orders of the board to be voluntary and to rest upon the weight of public opinion as that opinion might find expression.

An examination of most, if not substantially all, of the questions in which railroads have declined to adopt and apply rulings of the board will show that they arose over questions of jurisdiction of the

Labor Board over the subject matter. They have been raised in good faith, honestly, and on the advice of competent counsel. Without searching further for analogy, the early history of the Interstate Commerce Commission frequently presented questions raised with like sincerity of purpose over its power and jurisdiction and in the first 10 years of its existence numerous cases found their way into the Supreme Court of the United States upon questions of that character.

As the body of interstate commerce law has been amended from time to time, like questions have arisen and have been debated and litigated, but when decided have been accepted, as, of course, by force of law they were required to be. Similar conditions arose in all of the States having State commissions, but these questions of jurisdiction have not condemned the institution of railroad commissions; on the contrary, they have aided in bringing about recognition of the value of our established form of regulation and acquiescence in it. It is not remarkable, nor was it to be unexpected, that like questions should arise over the working out of jurisdiction of the Labor Board under this new law.

Railroad companies that have raised these questions may be right or they may be wrong. It has been said in the presentation by the proponents of this bill that some of the violations of orders of the Labor Board have occurred under the sanction of the courts. In this country the decision of a court of competent jurisdiction has usually been accepted as a sound reason for questioning the jurisdiction of the tribunal, because the courts are the ultimate resort under our scheme of government for the determination of all litigated questions. I doubt whether there will be many refusals on the part of either carriers or employees to adopt the rulings of the Labor Board when questions of jurisdiction are finally settled. Aside from these jurisdictional questions the main features of complaint from railroad labor have arisen from the orders of the board reducing rates of pay and in some minor degree modifying certain rules of service.

On October 1, 1921, a crisis with the train and engine service over the 12 per cent reduction in rates of pay, effective July 1, 1921, was narrowly averted, and it was supposed that that situation was measurably well composed at that time. On July 1, 1922, the federated shop crafts declined to abide by the order of the board, refused to come before it, or to consider the offer then made for an immediate rehearing of the case and precipitated a nation-wide strike. For the first time the effect of public opinion exhibited itself, because in due time, as the situation came to be generally understood, public opinion justified the Labor Board and condemned the strike. In consequence the strike was lost, although at enormous cost to the railroads, to the employees, and to the public.

I do not wish to enter into a discussion of questions related to the personnel of the board or the individual actions or public expressions of any of its members, nor do I believe it of interest to this committee, nor consonant with its dignity to examine into or appraise the small matters of complaint and contention which have been thrown on the fire to add to the effort to create a conflagration. This board functioned measurably well when it operated in the forward direction; it encountered condemnation and complaint when it exhibited

the courage to function in the reverse. In reducing rates of pay it may have erred on the facts, but I do not believe that it did, and I do not think that the public believes that it did. If the personnel of the board is not adequate to the responsibilities that it carries, the law provides methods for change and some changes have occurred, but I think we may as well frankly face the major aspects of the situation and recognize that if Title III of this act is repealed it will be because of complaint, not against the board, but against some of the decisions of the board, and of those the major complaint arises over the fact that here was a tribunal for the first time in the history of the railroads that had the duty and the power to address itself to an examination of petitions presented to it for moderate reductions in wages and had the courage to decide on the facts presented that such reductions were appropriate. The railroads do not believe this record justifies the condemnation either of the law or of the personnel of the board.

The major reason for the proposed measure appears to be the demand by those particular organizations representing, as they do, only a part of railroad labor, to be relieved from the Labor Board and the pressure of public opinion under the duty created by the law, to first submit controversies not otherwise disposed of, to the Labor Board before resorting to strike. The law was enacted to bring it about through the pressure of public opinion that there should not be an interruption of traffic of any serious moment until the Labor Board has first had the opportunity to hear the case and announce a decision as to the right course to be followed.

For this important public reason, as well as for equally important reasons already given, this advance in labor legislation should not be abandoned without more persuasive reasons than have thus far been advanced. The railroads urge that it be given further trial before any important change is made in its provisions.

The CHAIRMAN. Mr. Holden, during the reading of your manuscript, I interposed a question as to the reasons for these changes in the various acts, and I hoped you would tell us somewhere, but I do not believe you did. What was the difficulty with the Erdman Act? I ask that simply for information.

Mr. HOLDEN. My information is that the principal objection to it was that the number of arbitrators was too small. It threw the whole burden upon one single individual representing the public, and it was principally a demand for a larger board.

The CHAIRMAN. How long did the Erdman Act remain in force?

Mr. HOLDEN. About from 1908 to 1913, I think it was.

Mr. THOM. 1898?

Mr. HOLDEN. Yes, I beg your pardon; from 1898 to 1913.

The CHAIRMAN. So the Erdman Act worked for 15 years?

Mr. HOLDEN. As I stated here, there was a period of four years almost, or less, before it was superseded—no; I am speaking of the Newlands Act.

The CHAIRMAN. In your statement you stated that the proponents of this bill represented a substantial number of the employees of the railroads but not all. Could you tell us what percentage you think the proponents represent?

Mr. HOLDEN. I can not, but other witnesses can give you more information as to that. I have made some examination of that question, however.

The CHAIRMAN. During the reading of your manuscript you stated a number of times, that some time in the future conditions would be more normal, and there would be less changing. Have you any idea when that time will arrive?

Mr. HOLDEN. No; I wish I did. I have not. What I meant by that, Mr. Chairman, was that what I think all thinking men of the country are concerned about are the perplexing questions arising out of not only the foreign situation, which affects conditions here and as to the export trade affects the railroads to a large extent, but other conditions which still appear to continue to maintain costs in this country on a higher basis than might be termed normal. I have had the opportunity, as many of course have had, to examine the range of conditions over, say, 150 years. There have been some very instructive studies made in the light of the last war to see how long it took after other world wide disturbances to get back to what appeared to be normal conditions, and there seems to be a measurably close analogy with conditions after the Civil War and conditions after wars earlier than that in world conditions. It takes some years.

The CHAIRMAN. How many?

Mr. HOLDEN. There is no rule about it. Sometimes we make a false start, as we did after the Civil War. We think conditions are back, but they are not so, and they get much lower. No man can answer such questions with any accuracy.

The CHAIRMAN. Can you tell us how long it took after these other wars to get back to what you call normal conditions?

Mr. HOLDEN. No; I can not, because that fact made no impression on my mind other than I think the panic of 1873 was well understood as a reflex of the disturbed conditions in the Civil War, and it may be said that it was probably 15 or 18 years after the Civil War before we resumed our normal stride in this country, and perhaps longer.

The CHAIRMAN. You referred to the reconstruction period being over. Have you any idea as to when you think the reconstruction period will be over?

Mr. HOLDEN. No, sir; I have not.

The CHAIRMAN. Do you think much of the reconstruction period has passed, or do you think we have most to contend with yet?

Mr. HOLDEN. That can but involve conditions in the future which I can not discern. I do not know.

Senator GOODING. There is a very different condition in this country than existed after the Civil War and the panic of 1873, is there not?

Mr. HOLDEN. I presume some difference.

Senator GOODING. A very radical difference?

Mr. HOLDEN. I do not know what you have in mind, Senator.

Senator GOODING. Well, you have organized labor to-day, and you have organized capital that did not exist after the Civil War to any great extent.

Mr. HOLDEN. I do not understand your reference to organized capital. I have never encountered it, but it is a fact that we did not have much organization in labor at that time, if my reading of history is correct.

Senator GOODING. I think it is generally conceded that there is very strong organization on both sides, which did not exist

at that time. I do not think you can compare conditions after the Civil War with conditions of to-day. I think it is almost a new country and a new world, and conditions are entirely different all over the world than they were after any of the great wars that have taken place. People are living better and are demanding more, and a fair division, as far as that is concerned, and from all indications it seems to me that wages are being increased not only by the railroads but by other great corporations. So this "normalcy" that we hear so much about—if that means we are getting back to conditions that existed before the war—does not seem to be coming; it seems to be going the other way.

Senator DILL. I want to ask one question with regard to the Erdman Act. Were there any big strikes during the operation of the Erdman Act?

Mr. HOLDEN. We have testimony which will give quite a complete statement as to that.

Senator DILL. You are going to give that information, are you?

Mr. HOLDEN. Through other witness. I would not venture to speak of it because I have not examined it.

Senator DILL. Coming back to one reference that you made—I did not come into the committee room until after you had started—you spoke of the employees who are not represented in the provisions of this bill. Do you know of any reason why the bill could not be so worded that they could be so represented?

Mr. HOLDEN. There is one particular thing, the train-engine service. They are largely represented here, of course, but beyond that the multitude of local organizations, as well as organizations applying to more than a single railroad, are so many that I do not believe there would be any practical method of providing for a fair scheme of representation. The trouble about this bill in that particular aspect—and it is not the only trouble—as we see it, is that it disfranchises many hundreds of thousands of railroad workers from any voice in the selection of representatives on these boards that are proposed, and I do not believe that is a practicable method whereby all interests including, as the transportation act contemplated, unorganized employees—whereby they can have a voice.

Senator GOODING. That is what you mean by saying that they are not represented in this controversy, is it?

Mr. HOLDEN. This bill as proposed is brought in here by certain named and specified labor organizations. They stated before you that they represented 2,000,000 railroad workers, and we question that statement because we know that there are many hundreds of thousands of railroad employees who are not affiliated with the named organizations that are here present presenting this measure; on the contrary, we also know that many railroad workers do not desire to be represented by some of the organizations named here.

Senator DILL. Well, this committee is not compelled to confine the bill that it may report out and pass through the Senate to these terms of this bill.

Mr. HOLDEN. Obviously not.

Senator DILL. What I am trying to get at is whether there is not a way by which this bill can be so changed, if it is necessary to change it, that all the employees can be represented.

Mr. HOLDEN. You would almost have to have a national election, if you go into the idea of selecting representatives for a national board of adjustment. Now, bear in mind that is one of the unwieldy provisions of the national boards of adjustments. You have got to give, in fairness, an opportunity to every man whose fate will come before that board, or may come before it, to be heard in the selection of his representatives on it, and those men are scattered from Maine to California, and you would have to provide almost a scheme for a national election.

Senator DILL. Of course, there are district boards that would not require mention.

Mr. HOLDEN. But this bill does not propose that kind of board.

Senator DILL. There is one, but as I understand it there are local regional boards.

Mr. HOLDEN. The bill does not provide for those; on the contrary the bill rejects the idea of regional and local boards.

Senator DILL. Maybe they call them district boards.

Mr. HOLDEN. I do not remember any provision of that kind in the bill at all.

Senator DILL. Well, I may be wrong about it as I have not studied it very closely.

The CHAIRMAN. I think Mr. Holden is right, but I do not see anything in the bill that confines its operation to the organizations which propose it.

Mr. HOLDEN. It provides that they shall nominate the members.

The CHAIRMAN. There are no organizations mentioned in the bill, are there?

Mr. HOLDEN. Yes, sir; very clearly and specifically mentioned.

Senator DILL. It mentions the different bodies of employees.

Mr. HOLDEN. It names the organizations.

Senator DILL. Well, I confess that I have not studied it as much as you have, but I do not recall that.

Mr. HOLDEN. It names the organizations; there is a list of them which was filed at the openings of these hearings as those who have proposed this bill.

Senator DILL. Yes; but not naming them in the bill?

Mr. HOLDEN. They are named here by very definite and specific identification.

The CHAIRMAN. Can you point out to us, Mr. Thom, where it mentions the names of the organizations? I do not see it. On page 8 it classifies the kind of employment but does not name the organizations.

A VOICE. It says "by each of the nationally organized crafts described below."

Senator DILL. That could be very easily reworded so as not to confine it merely to organized men.

The CHAIRMAN. That is a general statement.

Senator DILL. There may be an agreement of the organized crafts.

Senator GOODING. It provides how they shall be named.

The CHAIRMAN. At this point, while you are looking that up, I would like to read into the record some telegrams that have come to the committee addressed to the chairman of the Interstate Com-

merce Committee, Hon. Ellison D. Smith. The first one is dated March 25, and is as follows:

HOUSTON, TEX., *March 25.*

ELLISON D. SMITH,
Chairman Senate Committee Interstate Commerce,
Washington, D. C.

The undersigned representatives of shop craft employees and clerical and station service employees of the Southern Pacific lines in Texas and Louisiana, representing more than 8,000 railroad employees who are not members of the so-called national organized crafts, hereby enter our solemn protest against a favorable report of Senate bill 2646, and represent to you and the committee that said bill undertakes practically to enslave the members of our organizations and of others similarly situated to the so-called nationally organized crafts, deprives us of the right to have our grievances passed on by an impartial tribunal, and deprives the public of any voice in the settlement of labor disputes. The bill, if it becomes a law, will create strife and friction instead of preventing or minimizing either. We are writing more fully.

E. J. Scott, general chairman Shop Craft Association; W. E. Namenforf; O. G. Kissinger, general secretary; J. C. McDaniel, general chairman, representing association; Frank C. Ehlinger, of clerical employees; J. S. Harrell, Southern Pacific lines; L. E. Levison, representing association of general office employees; H. T. Wray.

The second is dated March 27, and is as follows:

SAN FRANCISCO, CALIF., *March 27, 1924.*

Hon. ELLISON D. SMITH,
Chairman Committee on Interstate Commerce Commission of Senate,
Washington, D. C.:

We the undersigned general officers Shop Crafts Protective League, representing shopmen of Southern Pacific Co., Pacific system, numbering 13,000, view with great concern bill 2646, pending before your committee, as it denies our association the right of appeal and representation in the adjustment of our wages and working conditions, thereby leaving us to the discretion of the railroad company or forcing us to affiliate with shop crafts organizations through which our members suffered loss of employment and seniority as well as several months idleness in 1922 account of shop crafts strike. Please accept this in the strongest terms possible as the unanimous protest of those we represent against bill 2646, and we urge that the United States Railroad Labor Board, on which the public is represented and which affords all classes a right to be heard, be continued in force and effect. We also respectfully request opportunity, if it pleases your honorable committee, to appear in person at hearings that may be had on this bill.

E. W. Kilgore, general chairman northern district; E. M. Felton, general secretary northern district; P. J. Mays, general chairman southern district; W. B. Osborne, general secretary southern district.

Senator DILL. You have no amendment, or suggestion of change for the Labor Board, as I understand you; you would let it run as it is?

Mr. HOLDEN. That is our view; yes, sir.

Senator DILL. Without the power to compel any acceptances of its orders?

Mr. HOLDEN. Just as it is drafted now. We think it should be tried further.

Senator DILL. You think that is a fair situation that the railroads can disregard and the employees can disregard, and the employees have a strike and the railroads keep on running?

Mr. HOLDEN. It seemed to be the culmination of the views of Congress, as I have said in my statement after three previous attempts at legislation. I do not know of any better protection to the public interest than this law provides. It is much better than any of the previous acts.

Senator DILL. If I understood you correctly, you stated that in cases where the railroads had refused to obey the Labor Board, they did it on the ground that the board did not have jurisdiction.

Mr. HOLDEN. In substantially all important cases, as I understand it.

Senator DILL. Is there anything to keep them from taking that position with respect to any decision that they do not want to obey.

Mr. HOLDEN. That period in the development of a new tribunal always passes by after the first few years of its existence.

The CHAIRMAN. Are there any more of your witnesses who are ready to go on, Mr. Thom?

Mr. THOM. Yes, sir. I will introduce Mr. Willard.

STATEMENT OF DANIEL WILLARD, PRESIDENT BALTIMORE & OHIO RAILROAD CO., BALTIMORE, MD.

Mr. WILLARD. Mr. Chairman, for the purpose of brevity and clearness, I have prepared a short statement which, with your permission, I will read, and if I fail to make myself perfectly clear as I go along, I would be very glad to be interrupted in order that I may clear up any point that is in doubt.

I have read the statement of Mr. Hale Holden before this committee in connection with Senate bill 2646, and my views concerning the labor provision of the transportation act of 1920 and also concerning Senate bill 2646, now under consideration, are in substantial accord with those expressed by him. Mr. Holden has dealt so fully in his prepared paper with the outstanding phases of the matter under consideration that it seems unnecessary for me to attempt to cover the same ground, although what I expect to say about certain features of the labor problem of the railroads will be found, I think, in full harmony with the position and principles so ably presented by Mr. Holden.

I think it may fairly be said that the labor provision under Title III of the transportation act represents the first real and enlightened effort of Congress to deal in a constructive way with the whole so-called railroad labor problem. A careful reading of the transportation act of 1920 will show clearly that Congress was seeking by means of appropriate legislation to provide the people of this country with adequate—which of course means also continuous—transportation at reasonable rates, and the whole scheme of regulation embodied in the act was designed with that object in view.

Congress was not unaware of the fact that on different occasions in the past the orderly operation of the railroads, or some of them, had been interrupted at different times because of disputes between the railway companies and their employees, such disputes generally growing out of different points of view concerning wages and working conditions. As Mr. Holden has pointed out, Congress, previous to the passage of the transportation act of 1920, had sought to deal with such matters by a kind of palliative method, and while the agencies so created by Congress had been productive of a certain amount of good, they had not proved wholly satisfactory either to the railway managers or to the railway employees, or for that matter to

those we have in mind when we speak of the general public. Notwithstanding the agencies previously set up by Congress, the orderly and continuous operation of the railroads had been interrupted on different occasions by the simultaneous withdrawal from service of a considerable number of men because of disputes which had originated between the men and the companies, and which had not yielded to the methods of adjustment provided by Congress. All this was well known to the members of the particular Congress which framed and passed the transportation act of 1920, and it was with all this information in mind that the Sixty-sixth Congress endeavored for the first time to develop a piece of legislation creating new agencies and outlining new procedures, all for the purpose of assuring to the public so far as possible the benefits of continuous and orderly operation of the trains.

It was urged by some when Title III of the transportation act of 1920 was under consideration, that compulsory arbitration should be required of the railroads and their employees, with appropriate penalties to apply to each or both parties to a controversay in case they failed to comply with the requirements of the act or the findings of the board of arbitration to be set up. Congress decided, however, and I think wisely so, not to make the provisions of the act compulsory. While I am personally in favor of doing everything that may fairly and properly be done to prevent strikes upon the railroads, I am not in favor of seeking that end by means of compulsory arbitration, because I do not think such a course would accomplish the result desired. In brief, I do not think such a law could be made workable in this country, certainly not at this time, and I assume that those who framed and secured the passage of the act in its present form must have held similar views. Being earnestly desirous, however, of doing something that would so far as possible assure the orderly operation of the railroads and not being willing to prohibit strikes by law, I take it that what the Congress then sought to do was this—they endeavored to provide such agencies and outline such procedures as might be expected to secure for the railway workers at all times just as fair wages and just as fair working conditions without striking as they could reasonably expect to secure even if they did strike.

Personally, I believe that Title III of the transportation act, if properly interpreted and applied, is capable of securing that result, and it is reasonable to suppose that if under the operation of the existing act the men felt confident that they could secure, by due process of law, just as fair wages and just as fair working conditions as they could expect to secure by striking, then and under such conditions strikes among the railroad workers would not be likely to occur. Of course there could be no positive guaranty under such a method that strikes might not occur, but there would be good reason to believe that they would not occur, and, in my opinion, that is about as far as we can expect to get with the solution of this problem at the present time.

Unfortunately, as Mr. Holden has pointed out, the Labor Board provided by the transportation act was appointed upon short notice and was required immediately to deal with one of the most complex labor situations that has ever existed in this country. The board so created obviously had no traditions or background for its guidance; it was wholly without the assistance of a skilled and experienced personnel trained in the matter of preparing such statistics and information as it clearly needed for an intelligent consideration and determination of the questions that came before it. The majority of the members of the board as first constituted had had very little experience in dealing judicially with such questions as at once came before it. Nevertheless the board did proceed to organize and to take up the duties imposed upon it by the law, and in less time, I venture to assert, than was ever given to the investigation and determination of a matter of similar importance it reached and announced a decision which increased the wages of the railroad employees of this country more than $600,000,000 a year, and by so doing it, of course, added an equal amount to the cost of operating the railroads. A very complex and serious problem was dealt with in an orderly and expeditious manner, and the public interests, in my opinion, were properly considered and conserved thereby. While the increases granted by the Labor Board in its decision No. 2, which I am discussing, were perhaps not as great as some of the railway workers and their spokesmen had hoped to secure, nevertheless I think it can be said that generally it was thought that the Labor Board had dealt with the matter in the way Congress had expected it would deal with it and that it had given due weight to all the standards and tests which Congress had provided for its guidance.

If we had continued economically on a basis of increased costs and rising prices, I think it is not unlikely that the Labor Board would also have continued to deal with the situation in a way that would have met with the general acceptance, if not approval, of the workers, and the decisions of the board, based upon the standards established by Congress itself, would probably have been acceptable to the railway managers and to the public generally, but the period of inflation following the great war finally ended, like all other such movements, and deflation began and it then became necessary for the Labor Board to consider reductions in wages in order to bring them in harmony with the standards and tests which Congress had incorporated in the law, and of course any movement which tends to reduce the individual income is not likely to be looked upon with approval by the individual so affected. Personally, I believe that the Labor Board, in its decisions reducing wages, was just as earnestly seeking to carry out the mandate of the law as it was when it gave its first decision increasing wages; and it should not be forgotten that notwithstanding the fact that no one likes to have his wages or income reduced, the first adverse decision of the Labor Board which had the effect of taking from the railway employees approximately one-half of the amount that was granted by decision No. 2, was accepted by the railway workers as a whole. The reductions so ordered were made effective with relatively little objection on the part of the men; it is certainly a fact that whatever objection there may have been, it did not result in any interruption of the service. I doubt if ever before there has occurred such a large reduction in the wages of the workers connected with any particular industry without violent protests, and it seems to me that this one accomplishment of itself fully justifies the wisdom of Congress when it enacted the existing labor provisions of the transportation act; and not only that, it reflects great credit upon the personnel of the Labor Board that dealt with the problem in such a way as to meet

with such general acquiescence, because we may assume that, however distasteful the reduction may have been to the workers affected, they evidently felt that under all the circumstances the reduction was probably justified by the then existing facts, otherwise they would have made more vigorous protest.

Unfortunately the Labor Board was called upon shortly after the issuance of its first order providing for a general wage reduction to give consideration to working rules and methods of practice, matters concerning which there was no common and accepted point of view even among the railway managers themselves. The situation to be dealt with, however, grew out of hasty and, I think I may say, ill-considered adjustments made during the period of Federal control but accounted for by the disturbed conditions brought about by the war. Please understand that I am not speaking in any spirit of criticism in this connection of Federal control. It is possible that even though the Government had not taken over the railroads during the war, the labor problems of the railroads at the end of the war and as a result of conditions brought about by the war would have been just as complex and difficult to deal with as in fact was the case at the end of Government operation. It is undoubtedly a fact that when the Labor Board attempted to deal with matters pertaining to working conditions, rules, etc., it had a much more difficult problem before it than the one which pertained merely to wages to be paid, and it had much less in the way of definite history and tradition for its guidance.

In June, 1922, the Labor Board, in its decision No. 1036, authorized a further reduction in the wages of men employed in the mechanical departments on all the railroads in the United States, and this order of the Labor Board resulted in a nation-wide strike involving a large majority of the men affected by the order, and it has been claimed by some that the labor provisions of the act and the Labor Board itself are both failures because this particular strike occurred. I do not subscribe at all to that opinion. I think we would be unfair to the Labor Board and to ourselves if we failed to give full consideration to all or any of the things which contributed toward bringing about the nation-wide strike of the shop crafts in July, 1922. It is a matter of record that previous to the strike some of the railroad companies had instituted practices and changed conditions which the workers felt were at least contrary to the spirit, if not to the letter, of the act and of the orders of the Labor Board, and during the same time many of the workers failed to comply with the spirit, at least, if not the letter, of the transportation act, and during the protracted hearings before the Labor Board, while the questions of wage reductions and changes in rules and working conditions were under consideration, many statements were made by both parties to the controversy—justified, perhaps, in isolated cases—which tended to create the false impression that the carriers or railway companies as a whole were unfairly exacting in their requirements and indifferent in their consideration of the rights and welfare of their employees, and that on the other hand the employees generally were negligent and indifferent in the manner in which they performed their work and were demanding and, in fact, receiving, under the terms of the then existing schedules, excessive wages for work indifferently and carelessly performed, all of which tended to create a feeling of antagonism

between the companies and the workers based upon misunderstanding, suspicion, and doubt. I am personally confident that the feeling of general doubt and suspicion, not to say antagonism, which developed between the companies and the men during the period in mind, had quite as much, if not more, to do with the strike of the shop crafts in 1922 as did the matter of wage reduction ordered to be effective at that time.

But however that may be, it is unfortunately a fact that many of the railway employees and their spokesmen seem to be dissatisfied temporarily, at least, with the Labor Board and with the labor provisions of the transportation act, and consequently they seek to bring about a change by the complete abolishment not only of the Labor Board but of all the labor provisions of the transportation act, substituting therefor a new legislative scheme for dealing with the problem, based in part upon the experience gained in the past under the Erdman and Newlands Acts, and in part upon methods which were made use of during the period of the World War but which were not designed for peace-time conditions and have never been subjected to the test of such circumstances.

As Mr. Holden has pointed out, it was hardly to be expected that a new semijudicial agency such as the Labor Board could deal with such a wide range of subjects as came before it without raising in one form or another the question of its jurisdiction, but even so, such questions, while they have risen, have not been allowed to destroy or impair the usefulness of the Interstate Commerce Commission, and, as Mr. Holden has also pointed out, are settled usually in an orderly manner in due course of time, and, as they are settled, the machinery as a whole works with greater smoothness and satisfaction.

While I am not able to say that I approve in detail every feature of Title III in the transportation act, I can and do say that as a whole I consider the labor provisions of the act the best scheme so far set up in this or in any other country, for dealing with the particular problem in mind. I felt that way when the law was passed, I feel that way to-day, and I believe that if the railway managers and the railway employees would earnestly try to compose their differences by the aid, when necessary, of the machinery already provided in the act, including the proper use of the adjustment boards as well as the Labor Board, that just as good results would be obtained as could be expected under any other possible scheme, and I join with Mr. Holden in expressing the hope that a fuller opportunity may be afforded to test out the act in its present form. If, however, Congress should determine to change the act, I am convinced that the plan proposed in the bill under consideration by this committee would not only not work better than the existing provisions, but would fall far short of obtaining the results which the public at least has a right to expect from legislation of that character.

The provision in the Howell bill for four national boards of adjustment appointed by the President as proposed, in my opinion would afford a cumbersome and inflexible agency far less likely to get satisfactory results either for the companies or the workers, than could reasonably be expected from the adjustments boards as already provided for in the existing act. It is true that the adjustment boards have not been made use of to as great an extent as might be

desired. The act itself provided that the carriers and the employees should be free to choose whether they should use such agencies or not. I think they could and should have been used to a greater extent than they have been, but no change in the law is necessary to bring that about. It rests entirely with the railroad companies and the railroad employees to make as wide a use of such agencies as seems desirable, and in my opinion no amendment is necessary or desirable in that part of the transportarion act.

The proposed bill provides that the process of mediation be restored under provisions similar to those in the Newlands Act. I have no objection to the use of mediation and conciliation whenever such a course seems desirable, and it is a matter of record that in the past mediators have been successful in composing many serious differences between the railroads and their employees, but as Mr. Holden has well pointed out, for more than 20 years preceding 1922 we were in a period of increasing costs and rising prices, and mediation nearly always resulted in giving the employees some increase over what they had previously had. It is an entirely different economic situation that we shall probably have to contend with in the future, because, presumably, the general tendency of costs and prices in this country and for that matter in the entire world will be downward for some period of time.

The CHAIRMAN. It is now 12 o'clock, and there is a call for a quorum in the Senate, and the committee will now take a recess until 2 o'clock p. m.

(Accordingly at 12 o'clock and 2 minutes p. m., the committee took a recess until 2 o'clock p. m.)

AFTER RECESS

Pursuant to the taking of recess the subcommittee reconvened at 2 o'clock p. m.

STATEMENT OF DANIEL WILLARD—Resumed

The CHAIRMAN. Mr. Willard, you may proceed.

Mr. WILLARD. I had finished discussing a certain matter with reference to the economic tendency, as I foresaw it, and I was about to begin reading my comments about the scheme of arbitration proposed in the bill when the adjournment took place.

The scheme of arbitration provided in the bill under consideration, in my opinion, is not so good and will not be so satisfactory as the plan provided for in the existing law, and not being compulsory is just as likely to fail as is the existing act.

I was selected by the railroads in the eastern region in 1912 to serve on the board of arbitrators appointed for the purpose of settling the differences which had arisen between the eastern roads and their locomotive engineers. The board consisted of seven members, one selected directly by the railroad companies, one by the representatives of the men parties to the controversy, and at the request of the parties to the controversy, the other five were appointed and requested to serve by the Chief Justice of the United States, by Judge Martin A. Knapp, and Dr. Charles P. Neill, acting as a committee. I doubt if better men could be found to serve on any similar

board than the five gentlemen who were selected as above to serve on the particular board to which I refer. Mr. Oscar Straus, of New York, formerly Secretary of Commerce and Labor, was the first chairman of the board, but he was obliged to give up the duties of that position, and was succeeded as chairman by Dr. Charles R. Van Hise, president at that time of the University of Wisconsin.

The board of arbitrators so constituted took evidence in July, 1912. A great mass of testimony was submitted by the parties to the controversy, and the board also sought information from any other source available. It appreciated the importance of the matter submitted to it for determination and gave as prompt consideration as possible to the subject. Nevertheless, a decision could not be reached and an award announced until the 1st of November following.

Doctor Van Hise, who wrote the decision—and his decision was concurred in by the other members appointed by Justice White and his associate, as well as by myself—used the following language, which I will read:

> As we have already pointed out in the body of our report, a board constituted like the present one has limitations. They have not the machinery for convenient consideration of the matters at issue. Without delays which would have appeared unreasonable—which, indeed, would have postponed the awards far beyond the time at which the board were expected to announce their findings—it would have been impossible to give the study that might have led to the formation of a complete and unqualified judgment on all points. Under the circumstances, therefore, which affect the present extremely complex case, the board have made all reasonable expedition in reaching conclusions upon the facts available and the arguments presented.

It was recommended also by the Van Hise committee that wage commissions permanent in character should be appointed to deal with such problems in the future, and some very definite and constructive suggestions were made in that connection.

Perhaps I may remind you again that the kind of board which Doctor Van Hise was referring to in this language was a special board invited to serve in a particular case, such as is suggested in the proposed bill.

Speaking in support of such commissions to deal with the matter, the following language was used—and the committee in its report recommended permanent commissions instead of temporary commissions to deal with such matters, and then, speaking in support of permanent commissions, he used the following language:

> Instead of having a board for each case, whose members have other duties and wholly inadequate time in which to perform the work, there would be a continuous board, the members of which give their entire time to the adjustment of wages. This board would have a corps of experts and statisticians; it would be allowed sufficient time to investigate a case fully. Thus an award would be made upon the basis of merit instead of on the basis of securing a settlement.

There is quite a difference between the two processes. I subscribed to the above recommendation in 1912 and no subsequent experience has caused me to change my opinion in that connection. I think it would be a very grave mistake to abandon a permanent board as now provided for and seek to obtain a new and untried board in each particular case, constituted as it would be of men whose time would be taken up chiefly by their regular duties and who would have no accumulated and current knowledge concerning the matters to be determined. There are in my opinion other serious defects in the proposed bill to which I make no specific reference at this time.

In spite of all the difficulties growing out of the complex labor situation at the end of the war, I think it is quite remarkable, as has been pointed out, that we should have come through the intervening period with so little serious disturbance in the labor relations between the railroads and their employees. It is undoubtedly a fact, as Mr. Holden has also stated, that the relations between the railroad companies and their employees generally were never more harmonious than they are at the present time, and the best evidence in support of that statement is seen in the actual accomplishment of the railroads during the year 1923.

That is all I have in my direct statement, Mr. Chairman. You suggested you might have some questions to ask?

The CHAIRMAN. I would like to ask if you have any suggestions as to the composition of the Labor Board. I mean by that, do you agree that it is made up in a manner that is most conducive to results?

Mr. WILLARD. You mean the present Labor Board?

The CHAIRMAN. Yes.

Mr. WILLARD. If I personally was charged with the duty of making up the board I would not have it as it is at present. It now has nine members; three nominated by the companies, three by the men, appointed by the President, and three others selected and appointed by the President, presumably to represent the public.

Personally—this is only my own personal opinion, I have not discussed this with my associates, I would favor a board of the same number with two men on the board to be nominated by the railroads, two to be nominated by the employees, to be appointed by the President, and five to be selected by the President as representing the public.

That would give a majority of the board representing the public, but it would also give two men who are familiar with all the problems of management, and two familiar with the problems of the employees, who could act as advisors and actually would act, as at this time, as advocates in the conferences with the board, but the determination of any problem could be settled by the five members appointed to represent the public.

That recommendation is not simply a hasty one. It is in substance the recommendation that was made by the Van Hise committee in 1912.

I ought to say, Mr. Chairman, that while I tried to make a very frank answer to your questions, I would not think that if other features of the act were worthy of a further trial it is worth while to change the make-up of the board in order to accomplish what I have in mind. But if a new board were to be established, personally I think such a make-up as I have suggested might be better.

The CHAIRMAN. Do you think that would be better than to have an entire board appointed by the President, the President having in mind, of course, the necessity of having some technicians on the board?

Mr. WILLARD. I am inclined to think so, because I recall that in the discussion which we had our board was made up of five representing the public and one representing the managers and one the men. In the discussions which took place while we were trying to reach a determination, these five central members, so to speak, called on us constantly to interpret rules and statements that naturally came before them, and I think we were of real assistance. Of course, they had the power to determine the matter because they were distinctly in the majority, and my only reason for suggesting two instead of one to represent the contending parties is to avoid the possibility that might occur after much testimony had been given and time devoted to it, in case one of those members should become ill and have to get off the commission of that particular party being without representation. If there were two men representing the parties in controversy, such a situation would not likely arise; in any event the majority would be representatives of the so-called public. That, I think, is right in principle.

The CHAIRMAN. Do you think the shop strike of 1922 was perhaps the greatest deviation from the board's ruling of those that have happened since the establishment of the board?

Mr. WILLARD. I suppose that that would be so considered. Certainly a greater number of men ceased work at that time, I think, than at any other time since the board has been functioning, but as I pointed out this morning, I think in considering that strike you must take into account all the things that led to it.

I do not think the strike—and this is only my own judgment, of course—I do not think that that strike would necessarily have occurred on protest of the reduction of wages, if it had not unfortunately come about through a long protracted period of hearings and so-called litigation that a great many statements had been made by both sides, undoubtedly exaggerated somewhat, as is apt to happen under such cases, and there had come about a distinct feeling of doubt and suspicion, all of which tended to create a situation which culminated in that strike.

I do not think that, by any means, should be taken as indicating either the failure of the Labor Board or the provisions of the present labor act.

The CHAIRMAN. In other words, you believe that if the contending parties had not talked so much to the public, the result might have been better; is that right?

Mr. WILLARD. That is another way of stating it; but that is what I have in mind.

The CHAIRMAN. I would like to ask, in view of what you have said, how the strike was settled, or was it settled, or what was the outcome of it?

Mr. WILLARD. I think it is fair to say, as Mr. Holden said this morning, that the strike was lost from the standpoint of labor, because the men did go back to work at the reduced wage which the board had fixed, and they generally went back to work with loss of seniority, and many did not go back to work at all. I do not think there was any uniform method of settlement. Very largely, the individual roads settled with their own men on a basis that was agreeable to them, I suppose.

The CHAIRMAN. I was going to ask: How did the Baltimore & Ohio settle their differences?

Mr. WILLARD. Well, we settled ours in harmony with what was known as the "Baltimore plan." There is quite a long story in connection with that plan, which I will not go into.

Perhaps it is sufficient to say that at a small conference which was held in Baltimore in September between three railroad executives and

some of the labor leaders this particular plan, which afforded a basis of settlement, was agreed to, and the labor leaders procured the acceptance of that plan at a conference called by their executive committee in Chicago, and I think some dozen or fifteen, maybe twenty, railroads also settled with their own employees in harmony with that plan.

In substance, that is the settlement that was made with the Baltimore & Ohio. I can not speak for anybody else.

The labor men had insisted that if they came back they should come back with the same seniority that they had before they went out of the service. Of course, we were unwilling to concede that. As a matter of fact, we could not concede it. The Baltimore & Ohio had about twelve or thirteen thousand men in its employ that had been hired during the strike, and under our rules and schedules under which they were hired they were assured that their seniority should date from the day of their employment. We could not overlook that.

So we said in effect to the labor leaders:

> We can not possibly grant what you ask for. We can not permit your men to come back and assert their seniority over these new men in the service. On the other hand, we can see your position, and if we were in your position we think we should insist on just the same point that you insist on. Now that being true, it is obvious we can never agree on that matter. Now, let us see if there are not some things that we can agree about. You are willing that your men should all come back to work at the reduced rate of wages. We are willing to take them all back at the reduced rate of wages. We agree to that. Out of these twelve or thirteen thousand new men who are working, undoubtedly most of them will leave when the strike is over, because they do not care to stay; they are not railroad mechanics in the first instance. They are being taken care of in barracks largely because of the lack of local protection in the smaller towns, and we are giving them their free board as they are working, and they are earning a great deal of overtime, which they could not do when the strike is over. So probably the great majority of those men will leave, and if they do there will not be any disputed questions about their seniority, because they will not be here. If you want to come back with the understanding that we will take you all back at the reduced rate of wages, we can not give you your seniority, but we will make every effort we can to give you just as good a place as you had when you went out at the rate of wages as fixed by the Labor Board, and we will do what we can to work out this question of the assignment of jobs in some way that will be fair and equitable.

They said they were willing to trust us to do that, and so they came back.

We were somewhat surprised. Out of the 12,500 new men, the most of whom we thought would probably quit, only about 10,000 actually did quit. So about 2,500 stayed. I suppose 1,000 of them are with us yet. Many of them did not care to stay. Those that wanted to stay did stay, and we have fulfilled every obligation that we owed them under the terms under which they came to work.

At the same time we have sympathetically tried to adjust the matter in such a way as to produce the least feeling of disappointment on the part of the old men, because we wanted them to come back satisfied and do good work, and they have come back and they seemingly are satisfied and they have done good work.

The CHAIRMAN. Putting aside the question of those who remained, probably 2,500, do you recognize the seniority of those who came back?

Mr. WILLARD. I am not sure I get your thought, Senator.

The CHAIRMAN. I mean, laying aside for the moment, the question of those who remained.

Mr. WILLARD. Yes.

The CHAIRMAN. Those who came back came back as new employees, or did you recognize the seniority that existed prior to their coming back?

Mr. WILLARD. Oh, no. We did not recognize the seniority from the time they went out. As a matter of fact, we never talk about seniority. That is a matter we had to set aside. If we got to talking about that, we would have been talking about it yet. We could not agree about that. The men who came back came back with the same relative seniority as between themselves as they had when they went out.

The CHAIRMAN. That is what I meant.

Mr. WILLARD. Yes; that is right.

There is just one more matter that occurs to me, Senator, that I might say. I was definite in my statement this morning that I opposed compulsory arbitration. It just occurred to me that that might be construed as going further than I would want it to go. I am not opposed to compulsory investigation. That is already in the present law. I think that should be in the present law. I think perhaps it is in the proposed law, but it is already provided for, and I think that is perfectly proper, that any argument, any difference that threatens to interrupt operation, should be thoroughly investigated in order that the public might have the facts and be able to judge for itself.

But when it gets beyond that and the question of arbitration comes up, then I am opposed to making arbitration compulsory because I think it would not work.

The CHAIRMAN. Was your road the first one to settle this with the shopmen?

Mr. WILLARD. I can not say that, Senator. We were one of the first, I assume.

The CHAIRMAN. Are there some roads left who have not settled?

Mr. WILLARD. Well, I can not answer that. I am inclined to think that only a minority of the roads settled the way we did. I think the majority of them settled on other lines which perhaps would not be considered a settlement from the standpoint of the labor unions, but I am not advised as to that.

The CHAIRMAN. Thank you.

Mr. THOM. Mr. Chairman, you asked me this morning to point out the portion of the law which has the effect of confining to the nationally organized craft the power to control the representation on the boards of adjustment, and which had the effect of excluding the other classes of railroad labor. You will find that in paragraphs a, b,——

The CHAIRMAN. What page?

Mr. THOM. Beginning on page 8—I was going to tell you that in a minute—beginning on page 8 you will find it in paragraph a, in paragraph b on page 9, paragraph c on page 9, in paragraph d on page 10, and in the early part of the settlement paragraph on page 11.

I suppose it will be frankly agreed by all parties that the purpose and effect of this law is to so confine this power. I will illustrate it by one of these paragraphs, they all being similar.

Paragraph a, on page 8, provides that the—

> Board of Adjustment No. 1 shall be composed of fourteen members, seven members constituting the labor group representing the employees and sub-

ordinate officials of the carriers embraced within the classification of (1) engineers, (2) firemen and hostlers (including outside hostler helpers), (3) conductors, (4) trainmen, (5) switchmen and yard train service men, (6) telegraphers (including telephoners, agents, levermen, train directors, towermen, and staffmen), and (7) train dispatchers.

Then it proceeds, in line 16:

The labor group of seven—

There are seven of those classes defined there—

The labor group of seven is to be appointed by the President by and with the advice and consent of the Senate, from not less than fourteen nominees, whose nominations shall be made and offered by the employees and subordinate officials by each of the nationally organized crafts described above.

So that the crafts described above must be nationally organized in order to exercise that power.

When you get to the Board of Adjustment No. 2 you will find in lines 15 and 16 on page 9 that two of them are to be nominated by "each of the nationally organized crafts above described," that having been preceded by a description of those nationally organized crafts.

In respect to Board of Adjustment No. 3, on page 10, you will likewise find an enumeration of the crafts, and in lines 11 and 12 the requirement that two each of the nominees shall be made by the nationally organized crafts above described.

With respect to Board of Adjustment No. 4, which likewise describes the crafts, in lines 3 and 4 on page 11 you will find that two of each of them are to be nominated by the "nationally organized crafts above described."

Then when you get to paragraph 2 on page 11—I will first ask you to make a correction in your print. In the twelfth line and in the fourteenth line on that page paragraph little b is referred to. That ought to be paragraph big b. Paragraph little b would refer to only one of the adjustment boards. Mr. Richberg tells me that that ought to be the big b in the place of a little b.

Then when we read that we find that—

If either the carriers or the nationally organized crafts which are, in accordance with the provisions paragraph big b of this section, eligible to representation upon any such adjustment board fail to make nominations as provided in paragraph big b of this section, within thirty days—

Then what shall be done to supply the place? But carefully, throughout, the power of making the nominations is confined to the nationally organized crafts.

The CHAIRMAN. That means in substance that in view of the fact that there are only these organizations and that these are the organized crafts, all others not members of these crafts would be excluded?

Mr. RICHBERG. I would like to clarify that at the appropriate time, Mr. Chairman.

The CHAIRMAN. Have you the next witness, Mr. Thom?

Mr. THOM. Mr. Gray.

STATEMENT OF MR. C. R. GRAY, PRESIDENT UNION PACIFIC SYSTEM, OMAHA, NEBR.

Mr. GRAY. Mr. Chairman, I want to address myself particularly to the fact that the proposed law, departing from a regularly constituted board, proposes that in all matters of major disputes there shall

be constituted a separate and new board of adjustment or arbitration board.

This is a matter which in the past the employees have objected to for the very pertinent reason that it brings into the equation in each case a new and wholly untried body, and injects them on short time, under duress, on pressure, expedition being the ordinary requirement for a determination upon a question of railroad wages and conditions, which is about the most involved of all wage considerations.

I think the committee would be enlightened by the latest experience which we have had where that procedure was followed. When the Railroad Administration was formed, it inherited not only a condition of universal dissatisfaction on the part of railroad employees with respect to their wages, but it inherited a number of complaints and applications which had been filed with the railroads individually in the groups prior to the appointment of the director general.

Railroad wages admittedly were too low compared with anything in industrial life, and comparable equally with anything applicable at that time in the other branches of the Government. The director general appointed a commission known as the Railroad Wage Commission for the consideration of matters of that kind, as I recall it, in January, 1918.

I should perhaps say, in explanation of why I am choosing this particular line of testimony, that during the time I was director of operation of the Railroad Administration. The director general appointed to this commission Hon. Franklin K. Lane, who was Secretary of the Interior; Hon. C. C. McChord, of the Interstate Commerce Commission; Judge J. H. Covington, chief justice of the Supreme Court of the District of Columbia; and Mr. W. R. Wilcox, chairman of the National Republican Committee and formerly chairman of the public service commission of the State of New York.

The announcement was made that this commission would consider and recommend to the director general the consideration of all wage matters. They called to their assistance Hon. Fred W. Lehman, of St. Louis, who had been the Solicitor General of the United States, and according to their report they had at their service during the consideration of this matter 10 technical, practical experts. They had at their disposal the entire personnel of the Railroad Administration. Not one of these gentlemen—and I think it is not an exaggeration to say that a commission of higher character and of greater legal and even administrative experience, or one that would be more generally trusted by the people, could not have been selected—but not one of them had any experience in the details of railroad operation.

They considered this matter for some time, but they approached it from an angle that might perhaps be termed humanitarian, disregarding by that method all of the well-established bases, relationships, and analogies, which had grown up in the railroad business by conference, and cooperation, over a term of a great many years. They approached it practically entirely from the standpoint of the increased cost of living.

They took December, 1915, as a base, and by a series of computations based upon Government statistics, they arrived at the increased cost of living, running from 41 to 43 per cent. They

determined, I believe, equally upon the advice of Government statisticians that this applied disproportionately to men of the lower incomes. In reaching these incomes they disregarded the specific rates which were applicable, either hourly, daily or monthly, to all the railroad employees, but substituted therefor the average earnings of the different classes of employees.

Now, it so happens that certain classes of men work more regularly than others. So a man, in that mode of reasoning, was penalized by that fact.

Then, having arrived at the income, they applied the percentages to the specific rates. On all wages, as I recall, of $46 or less a month, they applied a flat $20 per month increase, and then they practically inverted the cone and, starting in at the top with the lower salaried men, men of lower income, they began with an increase of 43 per cent, and then they gradually lessened until it reached the vanishing point at $250 per month.

That in substance is the award of the so-called Lane Commission and it was put into effect by the Director General of railroads.

This is what happened: Every relationship which had been painstakingly and intelligently and cooperatively built up over a long term of years was violently and completely disrupted. It is not an exaggeration to say that it was wholly unsatisfactory to everyone.

I want to give you a few percentages which resulted from that method of approach, these being classes of employees closely and intimately related to each other.

Freight engineers were increased 15½ per cent. Freight firemen were increased 34¼ per cent. Freight conductors were increased 20½ per cent. Freight brakemen were increased 39½ per cent; passenger engineers, 11¼ per cent; passenger firemen 28¾ per cent; passenger conductors, 15½ per cent; passenger brakemen, 39½ per cent.

There has always been an analogy, not accurate, but there has been analogy between freight engineers and freight conductors, passenger engineers and passenger conductors. You can see that freight engineers were increased 15½ per cent and freight conductors 20½ per cent. There has always been an attempt at an equitable spread between the engineer and the fireman. You see, as I have read the figures, that freight engineers were increased 15½ per cent, freight firemen 34¾ per cent, and we had the amazing situation as a result of this of a fireman and an engineer on an identical engine with the fireman receiving more money than the engineer received.

This is only indicative of the situation which resulted in all classes of service. The telegraph operator's relationship to the agent immediately went out of all former ratio; the clerk to his associates and to his superior.

The further and perfectly amazing situation developed that, having based this finding upon the cost of living, the mechanical department employees in a large part of the country actually had their wages reduced, notwithstanding the fact that at that time we were losing in all of the shops throughout the country to industry in general and to the Government shipbuilding yards hundreds and even thousands of mechanics. That came about from the fact that from 1915 to 1918 there had been a number of increases where the wages of the mechanical department employees had been stepped up, more particularly in the West and in the South than in the East, but the decision did not take that into consideration at all.

So it was necessary for the director general to immediately appoint another commission, another board to review this decision, and to bring into consideration all of these elements of commercial competition and comparable rates, so as to bring about a decision that would be fairly satisfactory to the men and would retain them, which was the greatest consideration at that time, retain them in the service.

The CHAIRMAN. Let me see: What you are trying to prove from these facts is that this is due to inexperience of the men in adjusting rates; is that right?

Mr. GRAY. Yes, sir; I hope that is a practical case of an introduction of the highest type of men into the involved realm of railroad wages and relationships.

Senator GOODING. Now, Mr. Gray, can you understand how the board made such a mistake as to give the firemen more wages than the engineer on the same engine?

Mr. GRAY. Senator, I am not attempting to tell you why they made it. I am just telling you how they made it.

Senator GOODING. Did they realize at the time they were making it that that was the result of their percentages of increase?

Mr. GRAY. I do not know, sir. My only relationship in this matter was in the desperate effort subsequently made to put this into effect.

Senator GOODING. It seems such a simple thing that you wonder that men such as you spoke of, of that character—and they are great men; we recognize them as great men—should make such a a mistake as that.

The CHAIRMAN. Proceed, Mr. Gray.

Mr. GRAY. No; I do not know that I want to add anything to that, Senator, unless you want to know something about the detail of it.

The CHAIRMAN. I understand that you are opposed to this bill primarily because it sets up in your judgment, as I get it, inexperienced tribunals for settling these questions; is that correct?

Mr. GRAY. Yes, sir; as I stated it. That is the distinct difference between this bill and what we now have, and I feel that the calling into action, which never comes until the matter becomes acute. The calling into consideration of men all over the country who are necessarily inexperienced in the involved matters which they will have to consider, will always bring something of that same kind of result.

Senator GOODING. Is that the only objection you make to it?

Mr. GRAY. No, sir. I feel that what we want back of everything is stability—stability of approach and consideration, and an intelligent determination.

Now, a good deal has been said about the operation and functioning of the railroad boards of adjustment during Federal control. I had to do with the creation of those boards. If you are interested, I can tell you just why they were created.

The CHAIRMAN. I think we understand that.

Mr. GRAY. I would like to add this, however, that back of those boards and what made the functioning of those boards possible in the circumstances was always the superior authority of the Director General of Railroads.

The CHAIRMAN. Have you any other witnesses, Mr. Thom?

Mr. THOM. May I ask one question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. THOM. Senator Gooding and the chairman also intimated in a question whether or not this objection that you were making in the case of one was a prime and the other the only objection. Do you agree to the criticisms of the bill made by Mr. Holden and Mr. Willard?

Mr. GRAY. Yes. I have listened to both of those statements. I am in accord with them throughout.

The CHAIRMAN. You are in accord with Mr. Willard on the question of reorganizing the Labor Board if a reorganization is made on the basis that he proposes?

Mr. GRAY. On the basis he proposes. I think that it would be a serious mistake to not have in that board men who were expert in the vernacular of railroad men.

The CHAIRMAN. What I was trying to get at was: If the board is reorganized by statute, then you would approve of Mr. Willard's proposal that five represent the public, two the employees, and two the managements?

Mr. GRAY. That is the only change I could see, and that would improve it very much.

Mr. THOM. Mr. Crowley.

STATEMENT OF P. E. CROWLEY, VICE PRESIDENT, NEW YORK CENTRAL RAILROAD, MOUNT VERNON, N. Y.

Mr. CROWLEY. Mr. Chairman, I have just a word. The ground has already been covered.

At the hearing on March 18 the statement was made that the New York Central lines had violated decisions of the board and that they only obeyed decisions of the board when they were favorable to the railroads.

The records indicate that of the 104 decisions rendered by the Labor Board on cases submitted by the various New York Central system lines only two have not as yet been obeyed. These two decisions deal with the question of the leasing or contracting for the operation of shops. The question is of great importance, as it involves fundamental questions of contract and constitutional right. It is now before the United States District Court for the Northern District of Illinois, and when the court renders a decision the New York Central lines will obey the mandate of that court. In this connection, it might be well to recall that the action in court was brought by the contractor against the United States Labor Board and the Big Four Railroad Co. was made a party by order of the court.

You have been told by others details of why the present law should be given further trial. I want to leave with you a few general thoughts on this subject.

Prior to Government control many of the railroads had occasion to deal with only the train-service brotherhoods. With the coming of Federal control and the organization of national boards of adjustment there was an immediate extension of labor organizations, with the result that within a short period practically all railroad employees, and many railroad officers, were represented by one union or another. This was a new condition to thousands of em-

ployees and to the local officers of the new unions, who were selected from the ranks, as well as to the railroad officers; and it was difficult at times for the officers and employees to deal promptly and efficiently with the situation.

This condition prevailed until the termination of Federal control, when the present labor section of the transportation act became a law. This presented another new situation.

It is admitted that mistakes were made, some by the officers of the railroads, some by the officers of the new organizations. Now we are gradually getting back to the old-time method of settling many of our differences at home; and it is our thought that if the present law is allowed to stand, and the officers and employees profit by their experience, the number of cases it will be necessary to appeal to the Labor Board will grow less and less. At the same time it is necessary that there be some tribunal to which the employees and the railroad can appeal such cases as they are unable to dispose of at home, and in this the public should be represented.

The transportation act of 1920 is the first law we have had on the statute books which couples with the question of wages paid by the railroads to employees the question of freight and passenger rates; and, for the first time, we have a representative of the public on the board with power to deal with the question of railroad wages, in which the public are the most important party, as they must eventually pay the bill.

Furthermore, uninterrupted transportation for people and property is vital to the public, and, in our opinion, they should have a voice in the question of settlement of any dispute which, if not composed, might stop the flow of commerce.

Without doubt the Labor Board has made mistakes. The board has been the subject of criticism by railroad officers and the representatives of the railroad employees, and, at times, by the public. The labor law was new to the representatives of the employees, the railroads, and the public on the Labor Board, as it was to us, and naturally they have some mistakes, but we hope we have profited by our experience.

One of the most important factors in efficient railway operation and efficient service to the public is contented employees, and now that we are well on the road to handling local differences at home I regret that the situation must again be disturbed by the creation of national boards of adjustment, as contemplated by the bill now under consideration.

It is our thought that best results will be obtained by keeping the boards of adjustment local so far as possible, or, at least, confined to systems or groups of roads that might be termed local, and that these adjustment boards be created by the organizations interested and the railroad officers. To create national boards of adjustment, with representatives appointed by the President or other governmental authority, would remove such boards from that touch with the local situation which is so essential to harmonious handling of the questions that from time to time must necessarily be submitted.

I want to urge upon you again the importance of keeping these situations close to the home fires. I trust you will conclude to give the present labor law a further trial, but if, in your wisdom, you consider a change is necessary, I want to point out to you that

the bill before you, proposing, first, national boards of adjustment, and, second, boards of mediation and conciliation, has been tried before and failed.

As to the first, the creation of national boards of adjustment by the Federal administration, while necessary as a war measure, was one of the great factors in causing dissention and contention among the officers and employees of many railroads; and as to the second, the representatives of the employees have pointed out that this section of the proposed bill is practically copied from the so-called "Newlands Act," and you and I know this act did not function to the extent necessary to avoid a threatened nation-wide interruption of traffic in 1916.

The CHAIRMAN. Mr. Crowley, do you approve of the proposal or suggestion of Mr. Willard that if the Labor Board is changed at all it might be changed in line with his suggestion?

Mr. CROWLEY. I do agree with Mr. Willard. I think it would improve the board.

The CHAIRMAN. Did your railroad make a settlement with your shopmen during the strike?

Mr. CROWLEY. Yes; we were a party to the so-called Baltimore agreement. Our president at that time, Mr. A. H. Smith, was one of the railroad executives that formed the Baltimore conference.

The CHAIRMAN. Did it work out satisfactorily, the settlement?

Mr. CROWLEY. Very much so.

STATEMENT OF CHARLES P. NEILL, MANAGER, BUREAU OF INFORMATION, SOUTHEASTERN RAILWAYS

Mr. NEILL. Mr. Chairman and gentlemen of the committee, in regard to the subject that I am addressing myself to, I was one of the mediators from the beginning of the operation of the Erdman law until it was supplanted by the Newlands Act; and took part in the preparation of the Newlands Act and I was personally associated with practically every instance related in what I am about to say.

Certain of the statements made at the opening of these hearings by the proponents of the bill under discussion have endeavored to draw contrasts between a condition of "discord and strife" which, it is alleged, now mark the relations of the carriers and their employees and a condition of peace and harmony in an earlier period under the Erdman and Newlands Acts. The statements, analyzed, are in effect as follows:

First, that Title III of the transportation act has created a degree of discord and strife formerly unknown in the relations between the managements and the employees of the railroads of the United States.

Second, that in striking contrast to this present alleged condition, there was a period of some 30 years preceding the enactment of the transportation act, during which uninterrupted peace marked the relations of the management and the employees of the carriers in the transportation department.

Third, that this period of peace was due largely, if not wholly, to the machinery of the Erdman Act and, later of the Newlands Act, which were in effect for some 20 years immediately preceding the enactment of the transportation act.

Fourth, that Senate bill No. 2646, in part, merely recreates the legal machinery of these former acts, which in actual practice has "been tested and found effective," and that the bill, therefore, merely proposes a return to an old, worn, and traveled highway.

Fifth, that if the proposed bill is passed, Congress can have every assurance, in view of past experience, that the peaceful machinery of mediation or arbitration will always be availed of to avoid any discomfiture to public interests arising out of disagreements between railroad managements and railroad employees.

A specific and alluring prediction, predicated upon the passage of the bill, has been offered the committee in the following words: "If a controversy is not settled by orginal agreement or agreement after mediation, it is inevitable that arbitration will be brought about."

But this prediction must be the view of those who either had little actual experience with the machinery of the acts they are extolling, or whose recollections have mellowed into vagueness with the passage of time. It is somewhat persuasive to read a table showing the controversies adjusted either through mediation or arbitration during the 10 or more years in which the Erdman and the Newlands laws were in actual operation; but it must be remembered that, with few exceptions, all these mediations or arbitrations were preceded by friction and discord that finally led to the very edge of a strike; and that the mediation or arbitration in many cases only averted a serious interruption to traffic, with grave public consequences, by a very narrow margin.

I might add that I have stated there that these laws existed 20 years. That is true, but only during 10 years were they effective. For the first eight years the Erdman Act was a dead letter.

The real facts are that during a great part of the time from the beginning of 1907 up to 1917 the managements of railroads, and considerable part of the public alike, were constantly facing the menace of an impending strike. Thus, in the beginning of 1907 a strike of conductors and trainmen was pending at one and the same time on nearly 40 western railroads, including practically all of the large systems of that region. In the beginning of 1908 almost the entire southeastern territory was threatened with a strike of transportation employees. In 1909 the menace of a strike hung over the yards of the majority of the roads entering Chicago and St. Paul; and in November of that year a strike of the yardmen actually occurred on 10 great systems running out of Minneapolis and St. Paul, and affected all the yards on those lines from the twin cities to the Pacific coast.

A similar controversy in the Chicago yards was finally settled by arbitration; but one of the organizations now represented here in such enthusiastic support of this bill was not so impressed then by the advantages of the Erdman law, as it declined to arbitrate under its provisions, insisting upon arbitration under the provisions of State law.

Mr. CHAIRMAN. What is the name of that organization?

Mr. NEILL. The Brotherhood of Railroad Trainmen.

The interruption of traffic threatening the Chicago terminals in January, 1910, was hardly out of the way before some 50 western roads were facing a strike threat from their firemen; and in March of

that year the representatives of the managements of these 50 roads were notified that the strike had actually been authorized.

While in March, 1910, the managements of practically all the mileage in the western territory were thus confronted by an impending strike of firemen, the conductors and trainmen were carrying on a wage movement in the eastern territory. This movement reached its first culmination in February, 1910, on the B. & O., and the management of that road found itself facing a strike of conductors and trainmen in March. When the B. & O. controversy reached the point at which a strike vote was taken, a ballot was also submitted to the conductors and trainmen as to whether or not they desired to submit the matter to arbitration. Only 18 out of some 4,000 men voting, favored accepting arbitration as to the settlement of the question. Although at that time, with possibly one exception, the B. & O. rates of pay for conductors and trainmen were by far the highest paid on any of the large roads in the eastern territory, a strike was averted only by the granting of an increase in rates of pay to its conductors and trainmen by the B. & O.

Following this increase in wages on the B. & O. the presidents of the organizations of the conductors and the trainmen, who had handled the matter on the B. & O., presented to the New York Central management a demand for the same rates of pay as had been secured on the B. & O. A strike vote followed, and when, with a strike threat hanging over it, the management of the New York Central urged arbitration under the Erdman law it was met with a flat refusal on the part of the employees. An arbitration was finally secured, but only after the management of the road had agreed to waive arbitration under the Erdman law and had agreed to submit the demands of the men to arbitration by a board of two, composed of the former president of the conductors' organization and the former president of the trainmen's organization.

As soon as the prospective strikes of conductors and trainmen on the large eastern carriers had been averted, the representatives of these same classes began a wage movement in the southeastern territory and by June, 1910, a strike of conductors and trainmen was impending on the greater part of the mileage of the carriers in the territory east of the Illinois Central and south of the Baltimore & Ohio.

Before the end of 1910 the engineers had begun a wage movement in the western territory, and practically all the western lines—embracing over 100,000 miles—that had, in March, 1910, been facing a strike of their firemen were in December of the same year facing a threatened strike of their 24,000 engineers. The conductors and trainmen were at the same time in negotiations on the same roads for a wage increase and a strike of the engineers to enforce their demands would have inevitably brought on a simultaneous strike of conductors and trainmen.

There was a lull in 1911 so far as general movements were concerned, although it may be noted in passing that there was an actual strike of firemen that year on the C., N., O. & T. P.

In the early part of 1912 another general wage movement was begun on the eastern lines, this time by the engineers; and in April of that year practically the entire mileage of the territory east of Chicago and north of the Potomac and the Ohio Rivers was threatened with a strike of some 30,000 engineers. Neither side could be induced to invoke mediation under the Erdman law and the situation drifted on to the very verge of an actual strike, which at one time seemed not over 48 hours away. Mediation was finally resorted to and the controversy was ultimately referred to an arbitration entirely outside the provisions of the Erdman law.

With less than six months after the entire eastern territory had been freed from this threatened strike of engineers, the larger part of the mileage in the southeastern territory was again confronted with a threatened strike by the conductors and trainmen; and before the end of 1912 the firemen in the eastern territory had begun another general wage movement, which, in January, 1913, again, for the second time within 12 months, brought all the eastern roads to the verge of a strike over their entire mileage. Before the end of March a threatened strike was hanging over the Chicago terminals of the principal roads entering that place.

In July of 1913 the Erdman law was supplanted by the Newlands Act. At that very time a strike menace was again hanging over practically the entire mileage of the eastern territory, involving more than 100,000 conductors, trainmen, and yardmen; and the passage of the Newlands Act had to be expedited to meet the crisis.

Activities were then shifted back to the West and in 1914 the engineers and firemen in that territory, jointly in that territory, began a new wage movement on some 90 western roads. Again a strike vote was taken and in July, the probability of a strike faced the management of practically every road west of the Mississippi. In this case, when the men presented their demands, the roads served notice of a desire for a complete revision of their agreements on a basis more favorable to the roads than the existing agreements.

The matter finally went to mediation; but when arbitration under the Newlands Act was urged by the roads, the representatives of the engineers and the firemen refused flatly to consider any arbitration in which any question could be submitted dealing with a revision of existing rules, other than such revisions as the employees had asked. In this instance, the managements had protected themselves against the technical objections that had been raised in the earlier case when the New York Central tried and failed to get its requests before an arbitration board. But the organization representatives, nevertheless, positively declined to consent to the arbitration of any matters other than the question of whether there should be an upward revision of rates and a revision of rules more favorable to the men than the existing rules. They remained so determined in this position that the mediators wired the President that a strike over the entire western territory was imminent, that the mediators had exhausted their efforts and failed, and urged the President to intervene. The President did intervene, wired both sides asking them to come to Washington for conference with him and urging that no action be taken to change the status quo until he had had the opportunity to confer with the representatives of the parties in controversy.

The representatives of the engineers and firemen before starting for Washington issued a strike call and set a day and hour for a strike on practically the entire mileage of the West, unless before the time set the roads would agree to arbitrate the men's demands only and agree to withdraw their requests to be heard in the arbitration on the

revision of rules asked by the management. The conferences in Washington with the President of the United States were thus carried on with a strike order out and the day and the hour set for the beginning of the strike; and as all efforts to have the strike order rescinded or postponed failed completely the conferences were carried on under this ever-present coercion, and the strike was averted only when, under this duress, the managements finally consented to give up their right to have their requests for rule revisions heard by the board of arbitration and agreed to have the board pass only upon the demands for increases in rates of pay and for revisions of rules favorable only to the employees.

In 1916 demands were presented to practically every road in the United States by the organizations of engineers, firemen, conductors, trainmen, and yardmen jointly for an 8-hour day and time and one-half for overtime. At the urgent request of the employees the roads agreed to join together and have negotiations conducted by one committee which would represent all the carriers of the country. A similar committee was organized to represent the engine, train, and yard men on the same carriers. Negotiations were carried on for months between the two committees, and the representatives of the managements over and over proposed, urged, and begged that, in the public interest, the controversy be submitted to arbitration. Each time this proposal was summarily refused.

Finally the representatives of the roads invoked mediation, and the mediators endeavored strenuously to induce the representatives of the employees to submit their demands to arbitration rather than precipitate a strike of such disastrous magnitude on the public. Every proposal for arbitration was flatly refused on the part of the employees. When the complete failure of the mediation efforts became obvious, the mediators again appealed to the President to intervene, as they had done previously in 1914. On his invitation both sides came to Washington, and conferences were undertaken by the President.

But in the midst of these conferences the representatives of the employees, without advising the President of their action, issued a strike order, effective on practically every railroad in the United States, and set the day and the hour for the engineers, firemen, conductors, trainmen, and yardmen to leave the service of the carriers. When this action became known, the President felt compelled to abandon further conferences and appealed to Congress. There was less than a week left before the hour set for the strike would arrive, and in the face of this emergency Congress felt constrained to pass the Adamson law, giving the employees the greater part of what they had demanded.

Thus in the face of the two gravest crises that have confronted the carriers of the United States in their industrial relations, the law almost wholly failed in one instance and completely failed in the other.

This brief review of 10 years has merely touched on the larger controversies affecting at once a considerable number of carriers and a large area of the country. During the same period there were scores and scores of cases in which controversies on individual carriers reached the same critical point as these large controversies, with only a lesser degree of disturbance of the public. And although in the

previous hearing it was stated by the proponents of this bill that prior to the transportation act there had been 30 years without interruption of transportation service, I can positively recall somewhere between 10 and 15 actual strikes of the very classes of transportation employees who were under the provisions of the Erdman and the Newlands Acts.

I have not intended in what I have said here any criticism of either the managements or of the classes of employees who were subject to the Erdman law. Each believed it was standing for what was right and fair; and I am not even suggesting that the actual strikes that occurred might not perhaps have been justified. I am not discussing at all the merits of any of these past controversies, but I am merely trying to show the committee the "discord and strife" that existed during the years of the operation of the laws which it is now being urged should be, in effect reenacted; and I am challenging the implications that there was, under the operations of these laws, a peaceful and happy condition in the relations of managements and employees on the railroads of the country, which has been destroyed by the enactment of the transportation act, and which can be restored by the mere mechanical process of passing this proposed bill.

Moreover, neither the mediations, nor the arbitrations, held under the Erdman and Newlands Act were, at the time, considered such satisfactory settlements of pending disputes as they are now being pictured. Some of the mediations left extreme soreness and led to vehemently expressed dissatisfaction with the results; sometimes with bitter criticism of the mediators, and even attacks upon their integrity; and in the period of keen disappointment that followed the handing down of awards by arbitration boards, the representatives of the employees sometimes attacked these boards almost, if not fully, as bitterly as they are now attacking the Labor Board. The most frequent charge against such boards was that the so-called neutral arbitrators were, almost necessarily, without any of the technical equipment necessary to pass upon the highly complicated questions involved in the wage rates and the rules of the transportation employees; a criticism with which, I must confess, I sometimes found myself in complete accord.

But the dissatisfaction with these arbitration awards did not always find full vent in merely attacking the lack of technical qualifications on the part of the arbitrators. Charges of gross bias, of improprieties, and even of corrupt motives were sometimes leveled against the unfortunate victims who had been selected in the public interest to serve as neutral arbitrators. Sometimes these charges were by whispered campaigns and at other times were openly and publicly made.

If the old machinery of the Erdman and the Newlands Acts is again set up, it is inevitable that settlement by mediation or awards of arbitration boards will, at the time they are made, frequently prove just as disappointing as they did in the years past; and that there will again be felt and expressed criticism and resentment of the very kind that is now being directed against the Labor Board; for with human nature as it is, and with men's sense of right and fairness so profoundly influenced by their immediate interests, it would be wholly futile to hope that the mere setting up of any legal or govern-

mental machinery will remove all source of discord and create such a happy age of peace and harmony as it has been implied existed under the Erdman and the Newlands Acts.

I feel, further, that it is only fair to the committee to tell the actual processes that operated under the Erdman and the Newlands Acts, in order that there may be no misapprehension of the real forces that were at work in very many, if not practically all, of the settlements reached through mediation under those laws.

In the first place, not only the mediations but, as has already been pointed out, in the arbitrations, the settlements in important cases invariably represented increases in rates, or the revision of rules more favorable to the employees than the ones under which they were then working. As already stated, with hardly an exception, when mediation began either a strike was impending or a strike had actually occurred. The mediation proceedings were thus carried on under extreme pressure on both sides because of the imminence of a strike or the existence of a strike. Each side was, therefore, under compulsion in this sense that no management cared to have a strike precipitated nor were the organizations ordinarily willing lightly to take the chances of a test of force. The result of the mediation, therefore, merely indicated the extent to which each side was willing to yield under pressure. Where an organization was strong and determined, the managements made the larger concessions. Where an organization was weak and a management determined, the organizations had to make the larger concessions rather than risk a strike.

The foregoing is the plain truth about the actual operations of the Erdman and the Newlands Acts from December, 1906, when the Erdman law began to function up to the signal failure of the Newlands Act in the crisis of August, 1916.

STATEMENT OF JOHN G. WALBER, VICE PRESIDENT OF PERSONNEL NEW YORK CENTRAL LINES, NEW YORK CITY

Mr. WALBER. Mr. Chairman and gentlemen, I have been serving as the chairman of a subcommittee of the advisory committee of the Association of Railway Executives for the purpose of analyzing this bill. This statement follows the order in which the various subjects appear in the bill. It also replies to certain statements of the spokesman of the employees, as well as associating them with the appropriate sections of the bill.

The scope of the bill is greater than the scope of the labor provisions of the transportation act, to the extent that it includes interurban and suburban electric railways operating as independent units; all bureaus, associations, committees, and institutions of whatsoever kind or character, maintained or supported by or existing in furtherance of the interest of carriers; also all floating equipment such as boats, barges, tugs, bridges, ferries, and other transportation facilities owned and operated by the railways; also any receiver or any other individual or body, judicial or otherwise, when in the possession of the business of the carriers.

Under this language it is conceivable that claim might be made that employees of bona fide manufacturing companies engaged in the construction or reconstruction of locomotive or other equipment

for the railroads would be subject to the provisions of the proposed bill.

The railroads also maintain associations such as the Association of Railway Executives, the American Railway Association, and various others which would apparently come under the language of the bill. There are also traffic associations, such as the Trunk Line Association, Central Traffic Association, Western Trunk Line Association, and the Southeastern Traffic Association, Western Demurrage Bureau, etc. There are also associations in which the shippers participate with the railroads such as weighing and inspection bureaus; also joint boards composed of representatives, of the railroads and shippers in various large centers for the purpose of regulating car service, etc.

The employees of these various bureaus, associations, etc., have never been considered railway employees in that they are not required to be included in the various reports to the Interstate Commerce Commission, nor to the Railroad Labor Board as railroad employees. The work they are doing is not the work of any one railroad, and when this provision is considered, in connection with further provisions of the proposed law dealing with the regulations of Interstate Commerce Commission defining employees, subordinates, officials, etc., it will have to be recognized that there is no justification from the standpoint of the actual work these people perform, as well as their relation to the railroads, to justify their treatment as railroad employees.

The situation is briefly and concisely stated in decision No. 1656 of the Labor Board, reading as follows:

> The Railroad Labor Board decides that the Western Weighing and Inspection Bureau is an instrumentality adopted by the railroads and shippers for the performance of certain work of advantage and necessity to all of them on account of their relationship to each other, but the said work is so conducted that it can not be considered work of any carrier; nor can those engaged in its performance be considered employees of carriers within the meaning of the transportation act, of 1920, or coming within the jurisdiction of the board.

As an illustration of where the language of the bill might carry us, it should be understood that the classifications made by the Interstate Commerce Commission are based upon the actual duties of employees indicated in the actual conduct of transportation; but it is proposed to take that classification and apply it to outside bureaus and institutions whose occupations may not be similar in any manner to the existing classification of railway employees, and thus compel the arbitrary allocation of these occupations under a classification which never had them in mind.

Paragraph 5 describing the official group and paragraph 6 describing the employee groups must be considered in connection with the provisions of paragraph 7, and also the various paragraphs dealing with boards of adjustment.

Paragraph 7 adopts the classifications referred to in paragraphs 5 and 6 as the—

> Legal classification of all persons engaged in any capacity in the service of carriers, including all those persons included within the terms "employees," "subordinate officials"; and further provides that the occupational classification of any position shall not be changed from that established by the aforesaid occupational classification until such change of classification shall have been first approved by the Interstate Commerce Commission, etc.

This provision appears, however, to be qualified by the following provision:

That such occupational classification shall not be construed to define the crafts according to which railway employees are organized by their voluntary action; nor shall the jurisdiction of such national craft organizations be regarded as in any way limited or defined by the provisions of this act.

It is apparent that in so far as the management is concerned it may not change the classification of an individual employee without the approval of the Interstate Commerce Commission, but in so far as the employees are concerned, they are at liberty to insist upon a much greater change—namely, the transfer of entire groups of employees from the scope of one agreement to the scope of another.

Now, as illustrating that I would like to call attention to the digest of the railway act which was introduced at the previous hearing of this committee. By reference to the boards of adjustment on page 11 it will be noted that a switchman and yard train service employee are shown as being recognized by the Switchman's Union, and there is something like 85,000 of these employees. The membership claimed by the Switchman's Union is 8,700. Yet this recognizes the Switchman's Union as being their representative, and the New York Central Railroad at this very time has a request from the Brotherhood of Railroad Trainmen to conduct an election under the rules of the Railroad Labor Board to find out whether the Switchman's Union have a majority on the New York Central Railroad west of Buffalo to see whether the Switchman's Union have any right on this railroad.

Again, here under Board No. 3 for stationary engineers, firemen, and oilers, engine house and shop laborers, it shows that they are represented by the Brotherhood of Stationary Firemen and Oilers. Under the rules of the Labor Board, under the regulations laid down, of bodies of labor in the railroad shops.

A number of the railroads also have agreements with the Union of Stationary Engineers who are not affiliated with the railway employees department, and they are not recognized in here.

Under these regulations and by that provision, it would be entirely proper to transfer all these bodies of men from the terms of one agreement to another, but in contrast with that, the railroad management may have even changed the title of an individual without having a hearing before the Interstate Commerce Commission, the same as it is necessary if you want to change a rate.

The classification of the Interstate Commerce Commission referred to contains the following statement in the preface. The words in italic appear in bold-faced type in the original. I have the original here:

The occupational classification is *in no way and under no circumstances to be interpreted by the board, by the Interstate Commerce Commission, by the railroads, or by other interested parties, as setting up jurisdictional lines for occupations, or as limiting the kinds of work which employees may perform or the duties which they may assume. In preparing the occupational classification, the board has not aimed to standardize for the railroads the occupational duties assigned to, or the kinds of work performed by, their employees, and nothing in the classification nor in the report forms is to be construed in this light.*

Then in ordinary type:

Its purpose is solely so to group positions that the wage and other data reported to the Interstate Commerce Commission and to the United States Railroad Labor Board may be used for administrative and public purposes. It specifically provides against grouping together occupations of widely different duties and responsibilities, as well as rates of compensation. By adhering to the classification and the groupings provided for in the reporting forms, wage data will be more than indiscriminate totals and the averages computed therefrom will be valuable for administrative and public purposes.

Now, on pages 269 to 320 of these rules and classification and index of steam railroad occupations will be found an alphabetical list of the occupations, taking up 51 pages. This proposes to make each one of those designations a legal designation and before any change may be made these must be instead of having a hearing before the Interstate Commerce Commission.

Apparently it is the intent to make permanent and rigid any form of working organization that happens to exist at the time that this statistical basis was adopted by the Interstate Commerce Commission. The language of the bill would encourage opposition to changing methods of work in any office, if in so doing the duties and occupations of certain positions would be changed. For example, if in an office with say, 20 clerks now performing particular duties without the aid of mechanical contrivances it were decided to place one or two clerks in supervisory positions and have the remainder of the work done by comptometer operators and reduce the number of positions to say, 12, the language of the bill would encourage resistance, and the claim would be made that this could only be done after a hearing and approval of the Interstate Commerce Commission. See lines 10, 11, 12, 13, 14, and 15 on page 4.

This would be tantamount to almost prohibiting by law any reorganization in any office in the interest of economy and efficiency if such reorganization disturbed the titles of occupations and the character of the work.

As another example: If it were decided to consolidate two sections of an office, or vice versa, to divide the existing organization into two separate sections, this could not be done without a demand for a hearing and approval by the Interstate Commerce Commission, since such reorganization would necessarily change the titles and duties of the employees affected by the reorganization.

Progress is being made in the introduction of mechanical appliances in offices, stores, warehouses, platforms, and repair branches of the service which materially change the character of work performed and require changes in titles to make the titles more descriptive of the work. The classification of the Interstate Commerce Commission referred to plainly recognizes that there are in effect designations which attempt to describe the work performed by the individuals. The regulations clearly contemplate that regardless of such varieties of designations the employees shall be grouped into general classifications, but neither the Interstate Commerce Commission nor the Labor Board, which have had opportunities for having brought to their attention the diverse organizations of the railroads, the differences in operating and maintenance conditions confronting them in the various parts of the country, have undertaken to restrict the railroads in such detailed form.

The transportation act places upon the Interstate Commerce Commission the duty of defining subordinate officials, and in all their decisions they have not been influenced by the designations of the groups of "officials," "subordinate officials," and "employees" contained in the regulations. To now use the classifications designed only for statistical comparisons to fix jurisdiction of labor organization as embraced in the scope of adjustment boards and the making of nominations therefor, is directly opposed to all past practice and rules of existing agreements. This would produce confusion permeating all departments and consequent interference with efficient operation.

The declaration in section 2 making it the legal duty "to make and maintain agreements" is vague and can be construed, in connection with the 30, 10, and 20 day time-limits, and penalties on the carriers for changes in rates or conditions in section 3, paragraph 3, and section 6, paragraphs (A) and (B), as forcing collective bargaining through representatives in all cases. This is impracticable on small lines where few of a class are employed, and even on larger systems where only a few of a given occupation are employed, because it aims to compel the organization of employees where they may not care to organize and where the expense of organization may be considered excessive. The transportation act in providing for "100 unorganized employees" recognizes this phase.

Section 3 paragraph 1, contains the following provision:

> That any such representative or representatives (i. e., for conducting negotiations) may be designated by any carrier or by the employees or subordinate officials thereof, regardless of whether such representative be an official, an employee, or a subordinate official of any carrier, or an organization representing the employees or subordinate officials of any carrier.

This provision touches a subject that has been a matter of long-standing controversy. Certain organizations of employees for years have been endeavoring to extend their jurisdiction to take into their organization and legislate both as to wages and conditions of employment for the officials who immediately direct and supervise them. The railroad managements have been resisting this attempt to put supervisory officers under the control of organizations composed of the employees whom they supervise, for it is obvious that the authority of the supervisory official is hopelessly weakened when he is compelled to depend upon those whom he supervises in the matter of what shall be his compensation and his conditions of service.

The railroad managements have felt that to concede this demand of the employees to legislate for their immediate supervisory officials would be destructive of the entire morale of the organization. For example, the managements have refused to meet committees of yardmen who desired to negotiate conditions for yardmaster, and have refused to deal with committees of shop employees in matters affecting foremen. Section 3, paragraph 1, proposes in effect to give to the empoyees by law the right to represent the officers in immediate charge of them.

Paragraph 2 of section 3 makes it a violation of the Act if any management in any manner whatever attempts to influence its employees in regard to affiliation with an organization, or as to the selection by an organization of its representatives to deal with the management. If an organization which violates its contracts and

shows itself in other ways as utterly subversive of discipline or of orderly procedure should endeavor to secure representation on a given road, it seems only fair that the management should be allowed in an open and fair way to place before its employees the character of its objection to dealing with such an organization. This paragraph would estop the management from even sending out a circular letter containing any statement of its position.

Again, if an organization selected as its representative a man who so conducted himself that no self-respecting management could be expected to deal with him, and a management declined to meet such a representative, under the language of the paragraph in question, on page 7, such management would be deemed to be acting in violation of this act.

On the other hand, if a management were dealing with a responsible organization, and an outlaw organization attempted to get a foothold on the property and disrupt operations, the management would, under this language, be estopped from submitting its side of the case to the employees, and from endeavoring in the interest of uninterrupted transportation to persuade its employees to remain with the responsible organization.

Furthermore, it can not be overlooked that the membership of certain organizations referred to in this act is not confined to railroad employees, but includes a large number of persons in outside employment who have a voice and sometimes control in the selection of representatives of railroad employees. The words "interference" and "influence" could be construed to prevent a perfectly fair, open, and legitimate attempt on the part of a management to put before its employees its side of the case, thus leaving the management in the situation of being unable to protect itself against possible misrepresentation of its position to the employees whose interests are interwoven with the success of the properties.

Section 3 (A), paragraph 3, provides that when any dispute arises and request is received from the representatives of the class involved, that the management must within 10 days after receipt of such notice fix a time and place for a conference and that such conference must be held within 20 days after receipt of such notice. At the present time on many roads there are 10 or even 15 different organizations and frequently the management may have conferences scheduled carrying them for many weeks, and it would be utterly impossible to guarantee that a new request from an organization could be given attention within 10 days, or that a date for a conference could be fixed within 20 days. Therefore, this bill proposes something which may be physically impossible to be carried out.

Furthermore, on a large railroad it might be impossible within a period of 30 days to secure the information necessary for the management to intelligently consider the request or the grievance submitted by representatives of a class of employees.

Section 3, article (B), page 8, deals with boards of adjustment. Four boards are provided:

Board No. 1 would be composed of 14 members, 7 representing the management group and 7 the labor group. This board would include engineers, firemen, hostlers, conductors, trainmen, switchmen, and yard train-service men, telegraphers, and train dispatchers.

Provision in connection with the employees is "representing the employees and subordinate officials of the carriers embraced within

the classification of" employees. The organizations of the engineers, firemen, and conductors have confined themselves to employees. The Brotherhood of Railroad Trainmen has attempted to represent yardmasters, who are classified as "subordinate officials." The telegraphers have claimed to represent supervisory agents, wire chiefs, and office managers. Dispatchers themselves are classified as "subordinate officials," and under decisions of the Interstate Commerce Commission certain chief dispatchers are also included. There is nothing in the classification of engineers, firemen, conductors, and trainmen which would include "subordinate officials," but the term "yard train-service men" is probably intended to include yardmasters. The term "agent," used in connection with the telegraphers, is also very broad and would include one-man stations as well as stations having hundreds of employees. There is nothing in the classification of the Interstate Commerce Commission which would limit the scope.

In connection with the inclusion of any class of supervisory officials with employees they supervise, the experience of the railroads has been, since the effective date of the transportation act, that the control over supervision has become more difficult than it was formerly when the organizations dealt only with and for employees.

It is incompatible with proper organization and supervision to have the supervisory forces subject to the dictation and control of the employees who so greatly outnumber them, and it is respectfully urged that in the interest of proper supervision that nothing be done to extend the association of employees and subordinate officials in negotiations, or the scope of agreements, boards of adjustment and representation.

Placing certain supervisory officers by law in the same class with employees whom they supervise is fundamentally unsound.

A board of 14 members is unwieldy. Moreover, the principle involved here seems to be that the members of the board should be representatives of the different classes so that they may be familiar with the technical details of the duties and of the contracts.

On page 59 of the stenographic minutes of the hearing on March 18, in connection with the proposed composition of Board of Adjustment No. 1, Mr. Richberg states that telegraphers and train dispatchers, engineers, firemen, conductors and trainmen have a natural knowledge of the functions of each other's craft. This is true concerning certain duties only. At no time heretofore have all these classes been treated together.

The representatives of the engine and train service men are not familiar with the contracts of the telegraphers and dispatchers which are radically different from their own, nor are the dispatchers and telegraphers familiar enough with the contracts of the train service organizations to be helpful on a board of adjustment.

Board No. 2 would cover the so-called shop crafts and signalmen. The scope would also include "employees and subordinate officials of the carriers embraced within the classification" of the six designated crafts and signalmen.

There is nothing in the classification of the shop crafts which would include "subordinate officials." The Ex parte 72 regulations of the Interstate Commerce Commission has drawn the dividing line at supervisory forces below the rank of general foremen. The statistical classification of the Interstate Commerce Commission referred

to in the scope of the bill would extend the title of "subordinate officials" above the classes included in the Ex parte 72 regulations of the Interstate Commerce Commission. Aside from the serious confusion which would result, it would increase the number of officials by including many of the higher grades, who would be subjected to representation by employees.

The highest title heretofore included with "signalmen" has been "leading signal maintainers" or "leading signal mechanics." To include in the scope of the signalmen's organization "subordinate officials" below the rank of those described in the scope of the bill, namely, "division officer group," would add only the foremen if it can be assumed that supervisors of signals could be considered as assistants for the superintendents of signals, otherwise supervisors would also be included; but this is not clear and would produce confusion.

The work of shop-craft employees is usually confined to certain points, while signalmen are required to cover ranges of territory which make the conditions under which they work more nearly similar to the ordinary maintenance of way employees.

The comments under Board No. 1 in connection with association of supervisory officials with the employees and also the size of the board apply equally to this proposed board.

Board No. 3 would represent clerks, freight handlers, storehouse, express and station employees, first group.

Stationary engineers, firemen and oilers, engine house and shop labor, second group.

Maintenance of way employees, bridge and building employees, section men, coal-chute laborers, crossing watchmen, and pumpers, third group.

The coupling of "subordinate officials" with employees under the jurisdiction of the board, together with the general scope of the proposed bill, which eliminates only the officials below the rank of "official staff assistants," would include many heads of departments who are to-day recognized as officials and beyond the scope of any agreement properly negotiable with an organization.

The second group has not heretofore contained any "subordinate officials," but evidently it is intended to have them also represent their foremen. There is also a jurisdictional question involved in this group, namely as to stationary engineers. Certain railroads have contracts with the organization of stationary engineers. It is proposed to grant representation for engineers to the firemen and oilers. In a hearing before the Labor Board the engineers' organization challenged the right of the firemen and oilers' organization to represent the stationary engineers. The latter organization is not affiliated with the Railway Employees' Department of the American Federation of Labor; in fact, it was explained in the hearing before the Labor Board, previously referred to, that there is a conflict within the American Federation of Labor over stationary engineers performing certain work which it is claimed belongs to mechanics. The effect of the proposed provision would be to have Congress settle a jurisdictional dispute within the ranks of the American Federation of Labor which it has not been able heretofore to settle itself.

There is also a dispute between the organization of the stationary firemen and oilers and the maintenance of way organization as to

shop laborers. Under the national agreements made during Federal control and under the rules promulgated by the Labor Board, attempts were made to make a division of this labor. Both organizations are claiming jurisdiction. The fact that on many roads neither organization has been selected by the employees themselves has avoided any friction. I say that as absolutely the case on the New York Central Railroad.

The third group would include "subordinate officials." An anomalous situation exists to-day in that the backbone of the maintenance of way organization is in its membership of section foremen, who are classified under the Interstate Commerce Commission classification as "subordinate officials." On a few railroads the maintenance of way organization has also been representing the foremen and general foremen in the bridge and building departments, but under certain decisions of the labor board, these foremen, as a separate class from the employees, have the right to select their own organization.

There are no effective national organizations covering these "subordinate officials." Several such organizations have been attempted but have not been successful. The recognition by the proposed bill of "nationally organized crafts" would come into play in the treatment of this problem.

Here again the scope of the proposed membership of the boards of adjustment would be affected by the classification of the Interstate Commerce Commission referred to in the provisions of the bill. Under the Ex parte 72 regulations of the Interstate Commerce Commission, the subordinate officials cover officers "not higher than" division roadmasters, track supervisors, bridge and building supervisors below the rank of superintendent of bridges and building, and supervising carpenters below the rank of superintendents. The lowest class of "subordinate officials" dealt with in the satistical classification of the Interstate Commerce Commission now sought to define subordinate officials are officials with division authority and their assistants; and aside from the confusion which would result the problem of maintaining control over supervision would be seriously involved.

Board No. 4 would deal with marine employees and longshoremen.

While the bill specifically mentions marine engineers, there is no mention of marine firemen or oilers, deck hands and miscellaneous employees. The national organizations of masters, mates and pilots and of the marine engineers have had little success in showing representation of these employees since the end of Federal control. Prior to Federal control such organizations did not handle labor matters. Since the end of Federal control they have made spasmodic attempts to represent employees before the Labor Board, but without any noticeable success. Their principal efforts have been confined to the harbors at San Francisco, New Orleans and Hampton Roads. At various times they have been active in the New York Harbor District, but at that point they are very disorganized.

The provisions with reference to the several boards of adjustment seem to have been prepared without any regard whatever to the scope of the bill. Under "Definitions" it will be noted that the term "carrier" includes any express company, sleeping car company,

private car company, interurban and suburban electric railway companies, etc.

The framers of the bill may have assumed that all the various types of carriers would find some way of selecting representatives of the management, but as to the representatives of the employees the provisions are definite—that they shall be selected by national organizations of employees, and there has been filed with the Senate committee a list of the 20 so-called standard labor organizations which are supporting the bill. An examination of that list shows that no consideration is given to the organizations representing employees on such carriers other than the railroads.

It is common knowledge that the Amalgamated Association of Street Railway Employees represents motormen, conductors, trolleymen, shop employees, trackmen, and other employees on the interurban and suburban electric railways; but as to the other carriers we have no information as to the nature of the organizations of their employees. However, the provisions appear to be definite that the representatives of employees on the several boards of adjustment are to be selected by national labor organizations associated with the railroad industry.

We have no information whatever as to whether the labor organizations which are associated with the railroad industry have been selected by the employees of the other carriers, and without any information on that score it is inconceivable that the Congress should be expected to adopt such far-reaching regulations affecting the vital interests of all the carriers. It does appear evident that none of the employees of the interurban or suburban electric railways not conducted by steam railroads, and none of the transportation employees of the Pullman Co. have any representation on any of the boards provided in the bill. Moreover, take for example board No. 1. Seven members are provided on that board representing the employees, to match up with seven particular organizations now existing in the engine, train and yard, telegraphing and dispatching service.

The bill carefully provides that each of these seven organizations shall be guaranteed the privilege of naming one member of the board, but when it comes to providing for the representatives of management on such boards there is no provision whatever that the managements of street electric railways which are included, or the Pullman Co. should be given any specific number of representatives on that board. The representation of the management, in a word, is entirely scrambled, and representatives of electric lines, of short lines, of Class I lines, of the Pullman Co., express companies, and private car lines, are left to work out among themselves the respective number that each of these should be entitled to name on the managements' side of such board.

In the light of the different numbers of members representing managements and employees on the other boards, the problem of providing representation for the numerous interests, many of which have nothing in common, would be, if anything, more aggravated than the description in connection with board No. 1.

The number of employees, with the representation provided for would be approximately as follows:

Board of Adjustment No. 1	Number of employees
Conductors (1)	38, 650
Trainmen (1)	86, 000
Yardmen (1) [1]	83, 450
Engineers (1)	69, 300
Firemen and Hostlers (1)	85, 000
Dispatchers (1)	5, 645
Telegraphers (1)	71, 367
	439, 412

Board of Adjustment No. 2	Number of employees
Machinists (1)	68, 140
Boilermakers (1)	22, 150
Blacksmiths (1)	10, 280
Sheet Metal Workers (1)	12, 590
Electrical Workers (1)	9, 650
Carmen (1)	136, 700
Helper apprentices (distributed among crafts)	156, 500
Signalmen (1)	17, 390
	433, 400

Board of Adjustment No. 3	Number of employees
Clerks, freight handlers, elevator operators, baggagemen, porters, and others (1)	310, 000
Stationary Engineers	2, 700
Firemen and Oilers (1)	6, 600
Laborers around shops, storehouses, etc.[2]	125, 500
Maintenance of way mechanics, section foremen, trackmen, laborers, crossing watchmen, etc. (1)	402, 000
	846, 800

Board of Adjustment No. 4

Group classification of marine workers does not enable us to show the number of masters, mates, and pilots, nor marine engineers. The grouping is:

		Number of employees
Barge, lighter, and gas launch officers and workers	2, 020	
Deck officers (ferries and towing vessels)	870	
		2, 890
Engine room officers (ferry boats and towing vessels), marine engineers (1)		823
Deck and engine room workers (ferry boats and towing)	4, 230	
Deck and engine room officers and workers (steamers)	1, 720	
		5, 950
Floating equipment shore workers, longshoremen (1)		1, 020
		10, 683

NOTE.—Representation requested only for masters, mates, and pilots.

[1] Representation is to be given the Switchmen's Union which from the latest information available only claimed a total membership of 8,700.
[2] Divided between Firemen and Oilers and maintenance of way organization.

As previously stated, it is almost impossible to separate those workers between the organizations, such as the masters, mates, and pilots and the marine engineers.

The CHAIRMAN. I think the committee would like to adjourn, they have some other work to do, and I see the witness is only half through his statement.

Mr. WALBER. I think this is a good place to adjourn.

Mr. THOM. This is our last witness, and I want to have at a later time some time for summing up.

The CHAIRMAN. Very well; then we had better finish with this witness and conclude the hearing.

Mr. ROBINSON. No, Mr. Chairman; the short lines and the electric lines want to be heard.

Senator GOODING. We had better adjourn, then.

The CHAIRMAN. The committee will adjourn until to-morrow.

(Whereupon, at 4 o'clock p. m., the subcommittee adjourned to meet to-morrow, Saturday, March 29, 1924, at 10 o'clock a. m.)

ARBITRATION BETWEEN CARRIERS AND EMPLOYEES—BOARDS OF ADJUSTMENT

SATURDAY, MARCH 29, 1924

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The subcommittee met, pursuant to call, in the committee room, Capitol, at 10 o'clock a. m., Senator James Couzens (chairman) presiding.

Present: Senators Gooding and Dill.

The CHAIRMAN. You may proceed with your statement, Mr. Walber.

STATEMENT OF JOHN G. WALBER—Resumed

Mr. WALBER. At the close of the hearing yesterday, I was dealing with a table showing the number of employees that would come under the several boards of adjustment.

Senator GOODING. What page?

Mr. WALBER. Page 15 of the manuscript. I might add at this point that these figures were taken from the report of the Interstate Commerce Commission for the year 1923 and represent the average number of employees in service during the entire year.

It appears that the intent of the framers of this bill is to establish by law the control of the national organizations over railroad employees.

It would certainly appear that these various organizations should be required to show by what authority they assume to represent the several classes of employees in the railroad service. There can be no sound reason for treating all the railroads in the United States as a unit, but even if that were done, with the exception of the engine and train service employees—and I ought to add there the telegraphers and the signalmen—it is extremely doubtful whether the various organizations sponsoring this bill could demonstrate that they represented a majority of the railroad employees of the respective crafts or classes. Such organizations can not show that they have been selected by the employees on all the individual properties to represent them, and if such boards of adjustment were adopted by an act of Congress, it would appear that the employees on the individual properties would be compelled to accept representation by such labor organizations. The bill plainly only recognizes national craft organizations as the representatives of railroad employees and makes no provision whatever for the employees having any voice in the selection of their representatives.

The provision that the nominations for the various boards of adjustment shall be made by the nationally organized crafts means in practice that in the case of some classes of employees, the mere fact of being organized on a national basis would give them, by law, the right to control the membership of a board, although in fact such national organization might not represent even 50 per cent of the employees in the class involved. Furthermore, only certain of the organizations are composed of only railroad employees. On every occasion when questions have arisen as to the membership of some of the organizations in the service of the railroads, it has been represented that the organizations from their records could not separate the membership so that it is impossible to ascertain this information as to railroad employees. I might add there that this identical question arose in a hearing before the Labor Board, and at that time this statement was made by the representatives of the organizations.

Moreover, in many cases, there is extreme bitterness on the part of the members of the nationally organized unions against those who have declined to join the organization. This provision, in law, would require those who elected not to join the organization, or those locally organized, to submit all disputes to a tribunal, the membership of which they not only have no voice in selecting, but which membership had been selected by an organization hostile to the unorganized or locally organized, who would be obliged to submit their grievance for adjustment.

This proposed legislation, by confining the power of selecting representatives to the national unions, would be a most effective instrumentality for finally bringing about a closed shop on all the railroads in the United States.

For example: Assume that 65 per cent of the train dispatchers of the United States might be unwilling to join the dispatchers' association. But so long as they either form no organization or local organizations to deal directly with their individual managements, then the so-called national organization representing only 35 per cent would be recognized by law as having the right to name the representatives to pass on the cases of any dispatchers who might find occasion to carry grievances to a board of adjustment.

Apparently all that is necessary is for an organization to name itself the national organization of such and such craft and if it then secures representation in limited degree in various parts of the country, it would claim that it was a national organization. There are at this time, in more instances than one, two organizations representing the same classes of employees, both national in their title and with memberships scattered over the entire country. The question would immediately arise as to which organization would have the right to make nominations of public officials to sit upon these boards.

Right there I want to say, to illustrate that point, that there is the American Federation of Railroad Workers, which takes in all classes of railroad employees all over the United States, the Brotherhood of Railroad Trainmen, which has tried to legislate for yardmasters; but at the same time there is an association of yardmasters. Which would be the national organization?

An organization which to-day is the predominating organization of a given class might at any moment have its right challenged by a new

organization and after a short time the two organizations may be of almost equal membership. The language of the law, therefore, would invite friction and controversy over the selection of the membership of the proposed boards.

Now, right at that point I might say that it has been intimated that we do not understand this bill at all. We think we do. We have read it most carefully, and we have tried to analyze it, and I believe the construction we are placing upon this bill is absolutely sustained by the official publication of the railroad employees, namely, Labor, in their issue of March 8, 1924, where they prepare a skeleton of the bill with a detailed analysis of it, and in connection with boards of adjustment they state:

> Four boards of adjustment are created by the proposed railway labor act. The classes of employees which would come under the jurisdiction of these boards, together with the names of the organizations which would represent the workers, follow.

The names of the organizations are identical with those contained in the digest of the bill which was filed with this committee at your first hearing. So we do not think we have misconstrued either the language or the intent of the bill.

The experience of the railroads has been that the national application of rules has been the cause of a great deal of friction. Many of these rules disregard local conditions, which is responsible for the differences. Many railroads have negotiated entirely different rules than those laid down by the Labor Board, and if boards with national jurisdiction were to be inaugurated we have no doubt that the constant tendency would be to establish uniform and national application of rules.

The railroads have by agreement with the organizations established boards of adjustment for the engine and train service employees on certain railroads in the western, eastern and southeastern territories. An examination of their decisions would show that each board confines its decisions to the individual roads, and they are predicated upon the local practices. A very small proportion of the cases grow out of rules of general application. As to the latter, in the absence of understandings to the contrary they are generally uniformly applied, but there is no attempt to give local rules the same interpretation even though they are expressed in the same language on different railroads. This accounts for the general satisfaction that exists with such boards, but it is believed that if national boards were to be substituted, and such boards used to standardize the application of rules and practices, they would be equally unsatisfactory as the boards dealing with other classes of employees.

On page 4 of the stenographic minutes of the hearing of March 18, Mr. Robertson states that the bill embodies a program for insuring continuous and efficient operation of the railroads, and that the bill would accomplish this result.

Because of the conditions as to the designation of the representatives of the employees which are set forth in connection with the proposals for boards of adjustment, the managements are convinced that if the bill were passed in approximately the same terms as are proposed it would have the opposite effect of what is claimed for the bill. The complexities as to the classifications of employees which the bill would produce, and the disregard of the rights of em-

ployees upon individual properties and of the responsibilities of the managements upon individual properties, would produce interminable strife in connection with many classes of employees.

It is recognized that the engine and train service organizations have been selected to represent employees of practically all the railroads, but even within these groups there are rival organizations representing yard conductors, brakemen, and switch tenders. However, it is proposed to give both of these organizations equal representation on the proposed board of adjustment, notwithstanding one of the organizations represents both road and yard men, while another represents only yardmen; the telegraphers' organization has also been selected by the employees of most railroads, but not even to the same extent as the engine and train service organizations. As to the other classes of employees, the situation is very different, as shown by the comments in connection with boards of adjustment.

On page 4 of the stenographic report of the minutes of hearings on March 18 Mr. Robertson is reported as stating: "The railway bill"—and then asterisks for omissions—"has the enthusiatic support of all railway and marine labor organizations, subject to the provisions of the transportation act, 1920." An exhibit was also filed listing the organizations of employees.

This statement would lead one to believe that these were the only organizations recognized by the transportation act. There are numerous other railroad labor organizations as shown by the list compiled by the Interstate Commerce Commission in Ex parte 72.

The transportation act requires that the Interstate Commerce Commission prescribe regulations for the submission of nominations for the Labor Board. In compliance with that provision of the act the commission made four groups of railroad employees and subordinate officials. The fourth group includes 19 labor organizations which are not mentioned in the list of 20 shown on the exhibit filed at the hearing, and this group is as follows: Railway Men's International Benevolent Industrial Association; American Federation of Railroad Workers; Order of Railroad Station Agents; American Train Dispatchers' Association—and that association, by the way, is now listed with the 20, so that reduces this list of 20 in Group 4 to 19; the Roadmasters' & Supervisors' Association of America; National Order of Railroad Claim Men; Railroad Yardmasters of America; International Association of Railroad Supervisors of Mechanics; International Association of Railroad Storekeepers; Colored Association of Railway Employees; Brotherhood of Railroad Station Employees; Order of Railroad Telegraphers, Dispatchers, Agents, and Signalmen; Brotherhood of Railway Clerks; American Association of Engineers; Grand United Order of Locomotive Firemen of America; Porters' Union; Skilled and Unskilled Railway Laborers; Order of Railway Expressmen; Railway Traveling Auditors' Association of America; Order of Sleeping Car Conductors.

In addition, since the preparation of that list, numerous other organizations of employees have come into existence on many railroads. For example, each of the six mechanical crafts have organized independently on many railroads until to-day the crafts listed in the employees' exhibit showing organizations supporting the bill are now in a minority. The situation differs on the individual

railroads and any consideration of totals for the entire country would be misrepresentative and in disregard of the identity of the individual properties.

At that point I think it would be appropriate to try to supply such information, Mr. Chairman, as you asked for yesterday. We have obtained information from the eastern and western railroads, omitting the engineers, firemen, conductors, and trainmen about which there is no question, excepting that the Bangor & Aroostook, in Maine, is not included. The engineers' and firemen's organizations are not recognized on that property.

We find that in the East the telegraphers, who are represented by organizations which are the proponents of this bill, would have 18,232 employees, or 71.3 per cent, and of other representation in different forms, 7,343 employees, or 28.7 per cent.

The American Train Dispatchers' Association has agreements on the railroads in the East, having 648 dispatchers, or 33.1 per cent of the dispatchers in the East, while 1,310 men, or 66.9 per cent, have other representation. For the shop crafts, the organizations behind this bill are recognized on railroads having 63,221 employees, or 37.3 per cent, while railroads having 106,202 employees, or 62.7 per cent, have other representation.

The signalmen, the organizations behind this bill are recognized on railroads having 5,260 employees, 60 per cent, while on the other railroads there are 3,557 men with other representation, or 40 per cent.

For the clerical station forces, the organizations behind this bill hold contracts on railroads having 62,593 employees, or 46.4 per cent; while on railroads having other representation there are 73,002 men, or 53.8 per cent.

In the maintenance of way employees, the organizations behind this bill have 74,537 employees, or 50.6 per cent; while on railroads with other representation there are 72,681 employees, or 49.4 per cent.

Stationmen, firemen, and oilers, the organizations behind this bill, hold contracts on railroads in the East, where they have 1,291 men with 26.7 per cent; while subject to other representation there are 3,502 employees, or 73.3 per cent.

In the marine department the organizations named in the digest hold contracts on railroads with 521 employees, or 8 per cent; while there is other representation for 6,142 employees, or 92 per cent.

The CHAIRMAN. You have not averaged those?

Mr. WALBER. The average of all those classes? Yes; I have them here, Mr. Chairman. There are subject to the organizations, 226,303 employees, or 45.3 per cent; while with the other representation there are 273,789 employees, or 54.7 per cent.

In western territory the engineers' organization holds contracts on the railroads having 29,850 employees, or 99.5 per cent. There is other representation on the railroads of 150 employees, or one-half of 1 per cent.

The dispatchers' organizations hold contracts on railroads having 800 dispatchers, or 53.3 per cent; while on railroads having other representation there are 700 dispatchers, or 46.7 per cent.

For the shop crafts, the organizations behind this bill hold contracts on railroads having 30,410 men, or only 17.6 per cent. Railroads having other representation have 142,450 men, or 82.4 per cent.

For the signalmen, the organizations behind the bill hold contracts with railroads having 4,800 employees, or 96 per cent; while on the other railroads with other representation there are 200 employees, or 4 per cent.

For the clerical and station forces, the proponents of the bill have 107,000 employees, or 85.6 per cent; while the other representation has 18,000, or 14.4 per cent.

The maintenance of way employees, the proponents of the bill have contracts covering 180,000 employees, or 92.3 per cent; while other representation shows 15,000 employees, or 7.7 per cent.

The stationary engineers, firemen, and oilers, the proponents of the bill have 4,200, or 62.7 per cent; while other representation shows 2,500, or 37.3 per cent.

In the marine department 275 employees are represented by organizations proponents of the bill, 28.2 per cent; while other organizations with other representation have 700, or 71.8 per cent.

Totaling those figures, shows 357,335 represented by the organizations behind the bill; while there are for other representation 179,300, or 33.5 per cent.

Senator DILL. Where are these figures shown?

Mr. WALBER. A questionnaire was put out to the railroads and they supplied the information since we have been down here.

Senator DILL. I know. The railroads get it from their records?

Mr. WALBER. Their own records of the employees subject to their several agreements.

Senator DILL. As I understand, the ones that you give as being in the organizations are dues-paying members of the organization?

Mr. WALBER. Oh, no, Senator. No. Wherever these organizations represent a majority of the employees, whether 100 per cent, or anything else, if they have a majority they make the agreement with them.

Senator DILL. For all of them.

Mr. WALBER. For all employees, and all employees on that property.

Senator DILL. When they have a minority——

Mr. WALBER. The minority must work under the rules negotiated by the majority.

Senator DILL. And in the cases where a majority of the employees are not in the organization, how are they counted?

Mr. WALBER. A majority not in the organization?

Senator DILL. Yes.

Mr. WALBER. They come under the other representation, and the understanding is made with those.

Senator DILL. So that the totals are not necessarily exact as to the number of men in the organization?

Mr. WALBER. Oh, no; it has no regard to that. I will illustrate that further. Under the rules of the Labor Board if you are conducting these elections—and I recently had to conduct two elections on the New York Central Railroad—the elections were held and the ballots prepared according to the rules prescribed by the board.

As a result of a joint conference with representatives of all interests present, instructions were all drawn up and they had their tellers and examiners of the ballots and the checking of the employees and everything else, and the employees were left freely to designate

their representatives, and there was no attention paid as to whether they were representatives of the organization or not.

Senator DILL. You have not the figures as to the exact number in the organization?

Mr. WALBER. No, sir; before you came in, Senator, I referred to an experience I had before the Labor Board.

Senator DILL. I will read the hearings.

Mr. WALBER. We have never been able to find out.

Senator HOWELL. Let me ask a question, if I may: The purpose of this is to show that in the appointment of the adjustment boards not a majority of the men would be represented; is that it?

Mr. WALBER. The point is, Senator, that through the designation of national organizations for making nominations no provision is made for giving the employees on the individual properties the right to designate their choice.

Senator HOWELL. In other words, then; in making up the adjustment board you hold that a majority of the men are not consulted, but it is only so far as adjustment boards are concerned?

Mr. WALBER. Under this bill.

Senator HOWELL. Yes; under this bill. In other words, you are not attempting to show that this bill does not apply to all employees alike, and not particularly to those who are represented by these organizations?

Mr. WALBER. I am attempting to show that through the provisions for nominations being made only by the national organizations, it will be impossible to provide for employees, large bodies of employees on individual roads, to have any voice whatever in the nomination of the members of these boards of adjustment.

Senator HOWELL. In other words, then, your whole objection that you are making now is merely to the method of creating the boards of adjustment?

Mr. WALBER. The method for creating members of the boards of adjustment; that is correct.

Senator HOWELL. That is the only purpose of the testimony which you are offering now?

Mr. WALBER. So far as I have gone.

The CHAIRMAN. I would like to inject here, Senator, that I asked him yesterday when you were not here what percentage of the employees were represented by the organizations who back this bill, and he is attempting to show me what percentage of the employees of the various crafts back this bill and what organizations of railroad workers were not represented by the proponents of the bill. This is information that I asked for.

Senator HOWELL. Yes. I just wanted to have it made clear that such statistics as have been read would only go to indicate that the method of the choosing of the adjustment boards merely, which is just one of the details of this, would not include all of the employes, but that the bill generally is not affected by these figures at all.

Mr. WALBER. Mr. Robertson attributes the accumulation of cases before the Labor Board to the failure to establish boards of adjustment. The transportation act clearly provides for their creation by individual railroad systems, groups of railroads, regional or national. The railroads stood ready to create boards by individual railroads,

and in other instances by groups of railroads; but until late in 1921 the labor organizations persisted in having nothing but national boards. When the engine and train service organizations receded from this position, boards were created on one large system in the East; another covering three systems in the East; one covering the greater number of systems in the Southeast; and another covering the majority of railroads in the West. Other railroads have been willing to establish boards for their individual properties, but the organizations have refused to permit it.

As to other classes of employees, there are also numerous formal boards of adjustment on individual railroads. On most of the roads, however, the grievances are so infrequent that boards would have had little work to do, and the general experience for the past 18 months or more has been that, with few exceptions, understandings have been reached in conference.

On page 80 of the stenographic report of the Senate hearings on March 18 Mr. Richberg is recorded as saying:

> May I just add one suggestion that has occurred to me? It is quite well recognized, I think, in the settlement of disputes of this character that one factor that helps make the parties agree is the very lack of a definite tribunal of appeal.
>
> Now, one of the difficulties in the labor board situation is the fact that there is a channel immediately provided for an appeal in the event of a failure to agree in conference. The whole result of that on the stubborn man is to have him sit back in conference and say, "I won't discuss this matter; I will appeal," because he has a tribunal to go to. When you have a situation where there is no tribunal to go to, no definite tribunal, then always there is pressure for men to settle their own affairs.

If this correctly describes the attitude of men and managements toward arbitration boards, we feel that it would apply with as much force to the proposed national boards of adjustment. An unchallengeable advantage of boards by individual railroads or groups of railroads is that they do not require all the time of the members and they are free to devote themselves to other duties on days when the boards are not in session and thus keep themselves in direct touch with the conditions. Furthermore, this saves any additional costs for salaries of members representing both the managements and the employees.

I think it is very pertinent at this point to simply mention the experience of the eastern-train service board of adjustment composed of the Baltimore & Ohio, all the New York Central lines, and the Boston & Maine Railroad. Those railroads have some 15,000 employees in the train-service group, which is about 15.5 per cent of the entire United States.

For the 26 months up to March 1, during which they have been functioning, there was submitted to them a total of 165 cases, an average of 6¼ cases per month.

Now, that board is composed of managing officers, and it does not take more than three days to dispose of all these questions. Frequently they only have one day's session and close their docket and clean up. They go back to work on the railroads.

The labor representatives also sit on the southeastern board, and when there are none of these adjustment cases they go about attending to other business of the organizations, meeting with committees from other railroads, adjusting insurance claims and disability claims and all that business. They compose the situation, and it is a thoroughly economic and a sound way to do it. Those men would not have anything else to do for three weeks out of a month if they were to devote their entire time to these cases, and I think it is a very economic thing, I think it is sound, and I think nobody could justify a waste of having these men divorced from their railroads and devoting all their time to just these things.

Senator HOWELL. You suggest that a fixed tribunal tends to make the obdurate refuse to agree in conference and go to the tribunal?

Mr. WALBER. Pardon me. I am taking Mr. Richberg's statement to that effect which he made in connection with arbitration boards, and I hold if it is true as to arbitration boards it is equally true as to boards of adjustment.

Senator HOWELL. But it is also your view?

Mr. WALBER. Not wholly, Senator; not wholly. We have had this experience, as referred to by Mr. Gray yesterday, I think, on the boards of adjustment during Federal control: There are several roads that had no cases whatever in the two years of Federal control. The road that I am now with, the New York Central Railroad, had only three cases in the entire period of Federal control. It is altogether the mental attitude on both sides of the question. If both sides have serious desire to compose their differences, they can usually find a way out. If they want to compose their differences, they can usually find a way out, if they do not want to, as we say, "pass the buck" to somebody else.

Senator HOWELL. May I ask, what was your purpose of reading that quotation from Mr. Richberg?

Mr. WALBER. My purpose in reading that quotation, as I explained at the beginning, Senator, was that in order to expedite this work we have analyzed Mr. Richberg's and Mr. Robertson's statements and attempted to associate them with different provisions of the bill wherever we thought they were pertinent.

Senator HOWELL. You thought that this was pertinent, that that was the tendency where permanent tribunals were established, for the obdurate to refuse to agree in conference and go to the tribunal?

Mr. WALBER. I think so, with that statement of yours, Senator, "Where the obdurate."

Senator HOWELL. Now, is it not a fact that you have a permanent tribunal in the Labor Board to which they can refer these cases?

Mr. WALBER. Correct.

Senator HOWELL. Now, is it not a fact that the Labor Board has some twelve or fifteen hundred cases that they have never been able to get at?

Mr. WALBER. I do not know what the state of their docket is now. I do know this, that they are turning out decisions in pretty big volume recently, as they have no major cases before them.

Senator HOWELL. Do you not know that there are cases before the Labor Board to-day that have been there for three years?

Mr. WALBER. Yes, I do know that.

Senator HOWELL. Now then, your notion is this, that there should not be a permanent tribunal that can function, because, if it does not function, it discourages appeals; is that it?

Mr. WALBER. No; I beg to differ with you there.

As I will point out to you later, Senator, we hold that if this Congress, in its wisdom, should find boards of adjustment to be a proper

agency in the situation, they should leave the situation free to be handled according to the conditions on the individual properties. There are big and little railroads. There are railroads with very few of a given occupation in their service. There are railroads where a board of adjustment could be created by mutual agreement to cover almost every class of employees with representation on both sides. They could take care of that situation, and the advantage would then be that they were in direct touch with conditions on their properties and could do justice in the light of those conditions.

Senator HOWELL. But I want to bring you back again to this proposition: You have suggested here that where there is no board of appeal, permanent board of appeal, that can function, that it discourages the obdurate; therefore you are in favor of the present Railroad Labor Board because it is unable to function?

Mr. WALBER. No, Senator; I must disagree with you there, because I do not think that is a fair statement of my position. I have not yet expressed myself as to the final tribunal.

Senator HOWELL. It is a fair inference from your statement.

Mr. WALBER. I think not, with due deference to you, Senator.

Senator HOWELL. Because you have admitted here that there are cases that have not been heard that are three years old before the Labor Board. Certainly that would be discouraging to the obdurate. They would say, "Well, what is the hope?" And after your reading that quotation and citing it as an argument, it seems to me that it suggests that you view the congested condition of the Railroad Labor Board's docket as a favorable condition for the adjustment of agreements.

Mr. WALBER. I must respectfully disagree with your conclusion, Senator, because I do not think anything of the kind.

The CHAIRMAN. May I suggest to the Senator that Mr. Walber be allowed to finish his statement and then ask him questions, because some of these things we ask we find are covered later on.

Mr. WALBER. With the situation as it is with reference to the representation of employees on the individual carriers, it must be evident that to confine the labor membership of boards of adjustment to representatives of only national organizations would deprive not only great numbers of employees of the right to exercise a privilege which the national organizations appear to value so highly, but also to completely ignore the identity of individual railroads and the responsibility resting upon managements. This situation is more particularly described in connection with Mr. Robertson's opening statement wherein reference was made to Group No. 4 as defined by the regulations of the Interstate Commerce Commission in its Ex parte 72.

Furthermore, on page 55 of the stenographic transcript of the hearings on March 18, Mr. Richberg stated:

> Fair-minded persons will agree that such representatives should be "designated by the respective parties in such manner as may be provided in their corporate organization or unincorporated association, or otherwise."

Also, on page 53, he states:

> The rights of minorities are protected by the agreement of majorities and the will of majorities is enforced through the express or implied agreement of minorities to obey majority rules.

On page 65 he states:

> It [the bill] grants no special privileges to any particular labor organization; it leaves all railroad employees just as free as railroad managements to select their own representatives and to enter into agreements with full liberty of contract.

Mr. Richberg's statement is entirely inconsistent with the provisions of the bill. On the contrary, the bill expressly grants special and exclusive privileges to the particular national labor organizations described in the bill, and deprives unorganized employees and all locally organized employees of any representation whatever on any of the boards.

That is one of our particular objections to the bill. Then there is an error in copying this. This quotation should go up on the top of page 27. I will omit it for the present.

On page 6, referring to Title III of the transportation act, Mr. Robertson states:

> It has satisfied no one, and after 30 years without interruption of transportation service we have seen in four years under the transportation act discord and strife prevalent on the railroads and the only national strike in our history.

It is interesting to test these statements by the experience of the railroads during the year 1919 when they were under Federal control, with boards of adjustment for settling grievances, the bipartisan board of railroad wages and working conditions for handling wage matters, with a division of labor in the Federal Railroad Administration under a highly respected labor leader as director and the president of the boiler makers' organization as assistant director, and with the railroads under centralized control, thus creating a situation which is not possible with the railroads under separate corporate control.

In the year 1919 the following strikes occurred:

In the maintenance of equipment department there were 152 strikes, affecting 98 railroads at 384 points, with 1,761,683 man days lost. Those strikes comprise 89.67 per cent of the total man days lost.

In the maintenance of way department there were 10 strikes, affecting 4 railroads at 13 points, with a loss of 6,058 man days.

In the marine department there were 25 strikes, affecting 10 railroads at 4 points, with a loss of 36,767 man days.

In the store department there were 3 strikes, affecting 3 railroads at 4 points, with a total loss of 10,053 man days.

In the transportation department, freight-house labor division, there were 2 strikes on 2 railroads at 2 points, with a loss of 253 man days.

For pier labor there were 32 strikes, affecting 16 railroads at 30 points, with a loss of 110,852 man days.

For clerical employees there were 9 strikes on 6 railroads, affecting 9 points, with a loss of 10,487 man days.

In the train and engine service there were 2 strikes, affecting 3 railroads at 4 points, with a total loss of 13,777 man days.

With the switchmen there were 13 strikes, affecting 11 railroads at 13 points, with a loss of 14,567 man days.

The total affecting transportation department were 58 strikes, affecting 38 railroads at 64 points, with a loss of 149,936 man days,

with a grand total of 248 strikes, affecting 153 railroads at 469 points, with a loss of 1,964,497 man days.

These reports do not show separately any facts concerning signal-department employees, and the infrequency of strikes by this class of employees, either before, during, or after Federal control, is good evidence of satisfactory working conditions.

The "number of points" at which strikes occurred, as shown, does not reflect the actual number of points involved in these various strikes, as for instance, where system or general strikes occurred, certain roads showed entire system affected, while others reported the actual number of points involved; accordingly we have had to count each system as one point where the total points were not shown. It does indicate that the strikes were not all local, or all confined to one point. As a matter of fact in the number of strikes shown above are included the following system or general strikes:

For the maintenance of equipment department in the eastern territory on the Boston & Maine Railroad. They had a strike from August 7, 1919, for three days' duration. The durations varied with different departments of the railroad. This strike affected 5,400 men, with 16,200 man days lost.

The New Haven Railroad had a strike at the same time of 12 days' duration, affecting 6,532 men, and a loss of 73,384 man days.

The Wheeling & Lake Erie had a strike of 17 days' duration, affecting 850 men, with a loss of 14,450 man days.

In the southeastern territory the Atlantic Coast Line had a strike of 15 days' duration, affecting 5,804 men, with a loss of 87,060 man days.

The Central of Georgia, had a strike of 10 days' duration, affecting 2,500 men, with a loss of 25,000 man days.

On the Charleston & Western Carolina, strike of 10 days' duration, affecting 235 men with a loss of 2,350 man days.

The Florida East Coast, a strike of 13 days' duration, affecting 595 men, with a loss of 7,735 man days.

The Gulf, Mobile & Northern, there was a strike lasting six days, affecting 226 men and 1,356 man days loss.

The Louisville & Nashville Railroad had strikes ranging from four to nine days, affecting 6,727 men and a loss of 34,748 man days.

The Seaboard Air Line, a strike of 15 days, affecting 2,867 men, with a total man days loss of 43,395.

On the Southern Railroad they had strikes ranging from 6 to 14 days' duration, affecting 10,000 men, with a total man-days loss of 90,000.

In the western territory on the Chicago & Eastern Illinois Railroad, a strike of 11 days duration affecting 2,882 men, with a loss of 31,702 man days.

On the Chicago, Milwaukee & St. Paul there was a strike of 14 days' duration, affecting 14,441 men, with a loss of 202,174 man days.

On the Chicago & Northwestern, a strike of 15 days' duration, affecting 12,096 men, with a total loss of 181,440 man days.

On the Chicago, St. Paul, Minneapolis & Omaha, a strike of 10 days' duration, affecting 2,042 men, with a total man-days loss of 20,420.

On the Minneapolis, St. Paul & Sault Ste. Marie, a strike of 11 days' duration, affecting 3,054 men, with a man-days loss of 33,594.

On the Missouri Pacific strikes of from 1 to 13 days, affecting 5,191 men, with a total loss of 23,461 man days.

Northern Pacific, a strike of 10 days' duration, affecting 6,804 men, with a total loss of 68,040 man days.

On the St. Louis & San Francisco, a strike of 11 days' duration, affecting 4,064 men, with a loss of 43,146 man days.

Oregon-Washington Railroad & Navigation Co., a strike of seven days' duration, affecting 239 men, with a loss of 16,073 man days.

On the Wabash Railroad, a strike of 11 days' duration, affecting 3,774 men, with a 41,514 man-days loss.

There were general or system strikes in the maintenance of equipment department on 21 railroads.

In the maintenance of way department the Baltimore & Ohio on lines west was the only railroad affected in a general way.

In the transportation department, on the Nashville, Chattanooga & St. Louis and the Los Angeles & Salt Lake Railroads, train service employees tied up the whole railroad, while that same strike extended over to the Southern Pacific Railroads and to the Atchison, Topeka & Santa Fe into New Mexico, including lower California.

So that there were total general or system strikes in all departments of 24.

Now, while I am dealing with that period of Federal control, I think it would be appropriate at this point to explain that these boards of adjustment only functioned when the organizations held agreements on the individual railroads. They only had authority to decide disputes growing out of such agreements or the application of the wage orders of the Director General upon such agreements.

In the latter circumstance the Director General reserved the right to overrule them, but in the first circumstance where the disputes affected the terms of agreement, nobody could interfere with them in any way. They were supreme.

For the employees on railroads that were not covered by any agreement the Railroad Administration maintained a separate organization and department as a part of the headquarters. The division of operation and the division of labor disposed of all such disputes. Those disputes were not submitted to the boards of adjustment.

For instance, the signal department had no agreements, or very few, and all their cases were handled up at the central administration and not through the boards of adjustment.

On page 5 of the stenographic minutes Mr. Robertson states that "Title III of the transportation act has failed to insure or even to promote industrial peace."

In addition to the general situation described in the statements of other witnesses there can be no question that the policy of the labor organizations from the time the railroads were turned back to private managements has been to continue the handling of railroad matters on a national basis.

With reference to boards of adjustment, all the labor organizations persisted in demanding national boards of adjustment until the early part of 1921, when the chief executives of the engine and train service organizations notified the chairman of the Association of Railway Executives that they had withdrawn from the agreement of the 16 railroad labor organizations on this matter and were prepared to enter into negotiations concerning the establishment of regional

boards of adjustment. As a result of this change in policy of the engine and train service organizations the boards of adjustment previously referred to were created, but the other organizations persisted in the national policy.

The nation-wide strike of the shopmen is directly traceable to that policy; unquestionably the prolongation of that strike was due to their adherence to the national policy. It is a well known fact that representatives of the employees on certain northwestern railroads endeavored to obtain authority from the railway employees' department to negotiate a settlement within the first two weeks of July, 1922; but they were refused such authority. Later after the chief executives of the engine and train service organizations interceded in their behalf in August, 1922, they still adhered to the national basis, refusing to otherwise settle. Settlements by individual railroads that took place September 19, 1922, would have been entered into at least one month earlier if it had not been for that policy.

On page 56 Mr. Richberg states:

> These provisions for collective bargaining, as the basis for peaceful and continuous transportation service, do not require the railroads to experiment with any new industrial relations.

That should properly appear at the top of page 27.

The railroads have no objection to collective bargaining. They practiced it before Federal control of the railroads and have continued to do so under the transportation act. They do protest against any contention that collective bargaining must be nation-wide, or in other words, in disregard of the identity of the individual properties. In the engine and train services, covering which there are several boards of adjustment, the integrity of the contracts applicable to the individual properties is scrupulously respected, and it is recognized that it is complete "collective bargaining" when negotiations are confined to individual properties.

In order to avoid depriving large numbers of employees of their rights we believe that there is no escape from the conclusion that national boards of adjustment are impossible, and that the situation can not be met in any other way than by permitting such boards of adjustment to be created by individual railroad systems, groups of railroad systems, or regionally.

The proposed bill provides that the members of boards of adjustment representing the managements and the employees shall be Government officials, with their salaries and expenses paid by the Government. We are unable to reconcile these provisions with the oft-repeated statements of the spokesmen for the employees of the great desirability of having direct relations between the managements and the employees, and the contention that it is essential to the promotion of amicable relationships to make these boards bipartisan without any representative of the public.

We are convinced that, in the first place, national boards of adjustment are impossible for the reasons previously stated, if the rights of the employees on individual properties are to be respected, but for such boards as may be created by agreement on the individual properties we deem it highly essential that the membership of the boards be composed of representatives of the managements and the employees; and unless such principals assume the salaries and expenses of their respective members they will be removed from association with the conditions and responsibility for the results of operation.

The proposed bill would invest the individual members of the proposed boards of adjustment with power to demand access to any or all records of either party, which they may deem necessary for the proper adjustment of any dispute, with the right to assess penalties of $500 for each offense.

Under this provision a board of 14 might by a vote of 13 to 1 hold it had no right to demand certain papers or material because of their irrelevance, and the fourteenth member of the board could compel the production or examination of such documents at his pleasure. In other words, such provision completely destroys the corporate character of the body and leaves each individual member a free-lance to use his own judgment against united judgment of all other members of the board.

Section 6, article (B), page 24. This paragraph attempts to assess a penalty upon a carrier for "any attempted change in rates of pay, rules, or working conditions." It is a common experience of railroad officials to be charged with changing rules when some application is made of an existing rule to which a committeeman takes exception; committeemen are constantly making claims that existing rules are not being applied in accordance with their intent, and records of boards of adjustment show that numerous decisions have been rendered changing practices which have been in effect for long periods of time. We anticipate that such a law would promote multitudinous charges of attempts to change rules under such circumstances as would necessitate litigation.

It is respectfully urged that there is no justification for assuming that the managements are the only parties against whom such an implication could apply; if such a provision is proper it should apply to the representatives of the employees as well.

Senator Dill inquired as to conditions under which employees might violate agreements. It is pertinent to inquire whether this provision would have applied to the engine and train service employees who left their trains in the Mojave Desert during the strike of the shopmen in 1922. If so, how would the damages be calculated? Would the employees or the organizations pay them? A somewhat similar case occurred in September, 1919, when trainmen struck on the Los Angeles & Salt Lake Railroad, deserting their trains in some instances. This strike also extended to the Southern Pacific and the Atchison, Topeka & Santa Fe Railroads in California, Arizona, and New Mexico. Would this provision also have applied to that case?

Regarding the provision as to attempted changes, etc., "prior to final action as heretofore provided." The machinery set up disregards sizes of railroads, sizes of groups of employees, and appears to treat all the railroads as one system. As stated under the provision with reference to boards of adjustment there are many varieties of conditions on individual properties and the machinery set up can not be made to function under any and all circumstances.

We believe that there is no justification whatever for this provision.

On page 23 of the stenographic minutes extracts from the annual message of the President of the United States to the joint session of the Senate and House of Representatives December 6, 1923, are

quoted. We do not think that the extracts tell the whole story, as there is a very significant omission from the paragraph which is quoted. The extract is as follows:

> The settlement of railroad labor disputes is a matter of grave public concern. The Labor Board—

and then the omission—

> is not altogether satisfactory to the public, the employees, or the companies. If a substantial agreement can be reached among the groups interested, there should be no hesitation in enacting such agreement into law.

The complete paragraph is as follows:

> The settlement of railroad labor disputes is a matter of grave public concern. The Labor Board "was established to protect the public in the enjoyment of continuous service by attempting to insure justice between the companies and their employees. It has been a great help"—

that was omitted—

> but it is not altogether satisfactory to the public, to the employees, or the companies. If a substantial agreement can be reached among the groups interested, there should be no hesitation in enacting such agreement into law. If it is not reached, the Labor Board may very well be left for the present to protect the public welfare.

That is omitted. By "groups interested" we would understand from other parts of the President's message on this subject, as well as the paragraph itself, that he meant first the public, second the employees, and third the railroad managements. We feel that it is only fair that the entire statement of the President should be considered and not only one portion of it.

The foregoing directs attention only to the outstanding faults of the proposed bill. It has not been possible, in the short time available, to go into details concerning all objectionable features which are found in practically all of the important sections.

Gentlemen, that is all the direct statement I have prepared. If there are any questions, I will attenpt to answer them.

The CHAIRMAN. Senator Howell.

Senator HOWELL. Mr. Chairman, of course, I think it is much more enlightening if these questions can be asked in connection with the statements as made, because the questions and answers then appear in connection with the text in the record.

Senator DILL. We never would get through if we did it that way.

Senator HOWELL. I recognize the fact, of course, that it might take much longer to do it, but at the same time I presume our position is to bring out the weaknesses and strength of any statement that is made.

I want to call your attention to one paragraph on page 27:

> They [the railroads] do protest against any contention that collective bargaining must be nation wide. The railroads "do protest against any contention that collective bargaining must be nation wide," or, in other words, in disregard of the identity of the individual properties.

Was that statement made for the purpose of suggesting that this did contemplate nation-wide collective bargaining?

Mr. WALBER. The statement as made by Mr. Richberg was a general statement, and as we understand it, applied to the character of the bill, as we understand it, it is in the construction of what the bill contemplates. As we read the bill we feel it provides for nothing but nation-wide action, makes no provision whatever for respecting the integrity or the identity of any individual property. The individual properties are submerged and lost and are out of sight entirely in the bill.

Senator HOWELL. Is it not a fact that any number of employees on any line may organize and be recognized as an organization under this bill?

Mr. WALBER. No, not under the bill, Senator, as I read it. The only provisions for that are with reference to making nominations for the boards of adjustment or the—well, the boards of adjustment, and there is no reference whatever to anything else.

Senator HOWELL. I am not speaking now about the mere detail of the boards of adjustment. What I am talking about is this, that there is nothing in the bill that compels nation-wide collective bargaining.

Mr. WALBER. No; you are right about that, Senator.

Senator HOWELL. Well, this paragraph would suggest that it might be assumed that that was the purpose of this bill.

Mr. WALBER. No; I hope that I will not be understood as trying to create such an impression, because I am not, Senator. I am taking the statement just as it was made in connection with its context and reading it in the light of the bill itself, and I think that the specific reference is to that portion of the bill which requires us to make and maintain agreements.

In that connection, in the early part of my statement, I called attention to the fact that that meant organization of employees where there may be only a few of a given class on a railroad. The railroad may be small.

For instance, on the great big Burlington Railroad they have only one steamboat in their entire service, and they would have one marine engineer or a captain on it, or a mate or a pilot, or whatever they call him, and they make that mate a representative to negotiate under the language of that bill.

Senator HOWELL. Take for instance the Burlington Railway; that is for one railroad organization, is it not?

Mr. WALBER. In what way?

Senator HOWELL. I mean there is an organization of the employees of that road separate and distinct from the national organization?

Mr. WALBER. Well, that is not true of all classes. The engine and train service have theirs. In the shop crafts there is an independent organization.

Senator HOWELL. Yes; an independent organization. There is nothing in this bill that would compel that independent organization to change its character in any way whatever.

Mr. WALBER. As we construe the bill, that independent organization would have no voice whatever in the selection of the members on the board of adjustment.

Senator HOWELL. Now, we agree to that. But I am speaking about the bill in its general effect; that outside of the mere selection of the members of the board of adjustment the separate organization of which we have spoken on the Burlington road would not in any way be changed or altered in its relation to that road or to the other organization by this bill.

Mr. WALBER. But if we understand it, there is no recognition by the bill that there is such a thing as any other organization than those

national organizations; nor is there any provision in the bill for the employees of those other roads who do not want these organizations to represent them, to have any benefits whatever. It does not make it possible for that, as the present transportation act does.

Senator HOWELL. Yes. You have referred constantly to the board of adjustment. That is a detail. I am talking now about the bill as a whole, that it does not compel a separate organization to affiliate with another organization, and yet they can have the benefits of this bill.

Mr. WALBER. We can not see it, Senator, with all due deference to you.

The CHAIRMAN. I do not understand, Senator, how under this bill this organization on the Burlington that you refer to can get representation on any of these boards if they have a dispute with the system.

Senator HOWELL. I recognize the fact that the boards of adjustment are nominated by these organizations, but that is a mere detail of this bill. What I want to call attention to is this, that under this bill a separate organization can continue as a separate organization, and outside of the appointment of a member of the board of adjustment, they can function just exactly as they always have functioned heretofore.

The CHAIRMAN. Well, assume that is true, Senator. How is this organization going to get any representation if it has a dispute with the railroad officials?

Senator HOWELL. First they go to conference, so far as grievances are concerned; they go to conference. Now, then, there is an adjustment board to which they would go if conference fails.

But suppose it is the change of contract or change of wages; the adjustment board has nothing to do with it whatever.

The CHAIRMAN. I am asking you how they would get representation on the board that is to settle this dispute?

Senator HOWELL. Well, I recognize the fact that so far as the adjustment boards are concerned they are nominated by the national organizations, but that is a mere detail of this bill.

The CHAIRMAN. How are we going to straighten out that detail?

Senator HOWELL. That is a matter which we can take up. But they are using the argument against the formation of the adjustment board as an argument against the whole bill.

Senator DILL. That is a point I would like to get.

Senator HOWELL. That is a mere detail that they are objecting to.

The CHAIRMAN. But, Senator, I disagree with that and that is only one of the elements. Of course, you were not here all yesterday afternoon when we heard the first 15 pages of the statement. That is not the only objection, that is only one of the objections to the bill. I only wished to say that because you were not here, and I think the rest of the committee who were here do not agree with you that that is the outstanding or main objection to the bill.

Senator HOWELL. Pardon me; I am not urging that. There were other objections to the bill, but since I have been sitting here he has been urging this matter as if it affected the entire bill; that is, as if it went to the essence of the entire bill, whereas it is a detail.

Then he suggests, as I have pointed out, that this means nationwide collective bargaining. I want to make it clear to the committee

that that is not what this bill contemplated and what it does not enforce, because any separate organization of a hundred men on any railroad can be recognized as an organization and take advantage of the features of this bill. They can go to conference; they can then, if they fail to agree, go to the board of adjustment. It is true that the board of adjustment may have been nominated by these general organizations. The bill might be changed so that the President should name his board of adjustment from railroad men without reference to them. That goes to the question as to whether or not we should have permanent boards of adjustment, but the organization of a hundred men can go to conference, can go to one of these boards of adjustment, and then if they are not satisfied they can have the advantages of the board of mediation, and then they can go to arbitration; and if it deals with the wages or change of agreement, this board of adjustment has nothing to do with it whatever.

The CHAIRMAN. I still point out, Senator, that these men that you speak of have no representation on this board.

Senator HOWELL. I have admitted that.

The CHAIRMAN. I just wanted to emphasize it. I think that is a gross weakness in the bill, and not a detail.

Senator DILL. I want to get your view of the bill. Assuming—maybe you think it can not be done—but assuming that the provisions of the bill can be so changed that the employees of all kinds and classes would have consideration in the selection of these boards. What is your view of the method or the principle of boards of adjustment and a board of arbitration such as is planned here? I want you to waive there for the moment the question of whether or not it can be done, but assuming it can be done, and all the employees, regardless of the organization, will be considered in the selection of the members. I want to get your view of the plan suggested for the boards of adjustment and the board of arbitration.

Mr. WALBER. Senator, I think we have got to face the facts. Unless you face the recognized fact you never get anywhere in any of these problems. There is no connection whatever between these independent organizations on the several railroads. They have no relations with each other. There is no central organization through which these independent organizations function. You have got as many separate organizations as you have railroads. I think it must be apparent from that that it would be absolutely impossible——

Senator DILL. I want you to waive that impossibility.

The CHAIRMAN. I think the witness ought to answer the question.

Mr. WALBER. You can not waive a fact.

The CHAIRMAN. He asked if that was out of the way, what was your opinion of the system proposed in the bill, the scheme?

Mr. WALBER. I can not picture such a condition. I can not grasp such a condition. It seems so wholly impossible to me.

The CHAIRMAN. You are a prejudiced witness, if that is the case.

Mr. WALBER. No; I do not think that is quite right.

The CHAIRMAN. If I have imagination I can assume anything. Can't you assume that if this representation was as the Senator has prescribed how the bill might work? That is perfectly plain to me. I can understand that question.

Senator GOODING. He holds it is not possible, however.

The CHAIRMAN. I understand he holds it is not possible, but assume it is possible, then Senator Dill wants to know what his views are on it. That is a simple question.

Senator GOODING. Looking forward to the day when that condition might exist.

Senator DILL. Whether it is possible or not, assume that it is possible.

Mr. WALBER. My answer is that with the national board of adjustment, they result in more trouble than they save. I was a member of a board myself for nine months; I know something about their workings. I was a member of the Railroad Administration the balance of the time. I think it would be a great mistake to have a national board. I do not think that they could produce satisfaction to either the employees or the managements.

Senator DILL. That is what I was after. So that regardless of whether or not we could carry out the workings of the board, you are opposed to the system as a system?

Mr. WALBER. I am. You understand me correctly.

Senator GOODING. That is, that selfish interests on both sides would not permit the settlement of questions; is that the thought in your mind in connection with that?

Mr. WALBER. Well, that may be one explanation for it, Senator; but there are so many elements that enter into the consideration of these questions by boards of adjustment that really go into the capacity of the individual members. You have all kinds of men on both sides of the table, and if you do not find the right spirit on both sides, you never can adjust anything; and with so many boards I think it would be almost impossible to find the men to make such boards as are contemplated by this to function satisfactorily to either or both sides.

Senator GOODING. Well, of course, you do not get very far in legislation if you do not presume that there is a spirit of fairness in the settlement of all questions and that they are honest. If you can not get men to represent both sides properly on these questions, you can not get very far. So in legislation you have got to presume that there is honesty and humanity is going to be fair in these things. If you do not do that, you can not get anywhere, but you have got to stop.

Mr. WALBER. I appreciate that.

Senator GOODING. And war it out, fight it out.

Senator HOWELL. But there is a provision in this bill that if they are dissatisfied with the finding of the board of adjustment they can go to arbitration.

Mr. WALBER. Pardon me, Senator; I may not understand the bill, but if an employee or railroad submits a dispute to a board of adjustment and it is decided by a majority vote, there is no appeal, as I read the bill. Then again, I do not think——

Senator HOWELL. No; as I understand the provision for arbitration, it is just to meet a case of that kind.

Mr. WALBER. Not where the board of adjustment decides in the case by a majority vote; I think the bill clearly provides there is no appeal. That closes the incident.

But if I further understand, going back to these independent organizations, the only opportunity that they would have on dis-

agreement would be to go to the board of adjustment. They would not have a right to ignore the board of adjustment and go direct to mediation. The board of adjustment would be the intermediate step through which they would have to go.

The CHAIRMAN. Have you any more witnesses, Mr. Thom?

Mr. THOM. No, sir.

The CHAIRMAN. Who represents the short-line railroads?

Mr. BIRD ROBINSON. Mr. Chairman, according to the order in which we were arranged, we were to follow the electric lines, but they say that they can finish in 15 minutes, and asked permission to submit their proposition now, with your permission. So with that understanding, we will let them present their case, and Mr. Karr will speak for them, if you will permit.

The CHAIRMAN. Very well.

STATEMENT OF FRANK KARR, VICE PRESIDENT AND CHIEF COUNSEL PACIFIC ELECTRIC RAILWAY, LOS ANGELES, CALIF.

The CHAIRMAN. Have you given your name?

Mr. KARR. My name is Frank Karr, and I am an officer of the Pacific Electric Railway Co. at Los Angeles, Calif., and appearing here representing the American Electric Railway Association.

Senator DILL. Do you live in Los Angeles?

Mr. KARR. I do.

The American Electric Railway Association is an association composed of most of the street, suburban, and interurban electric railways in the United States. It was formed and is maintained for the mutual consideration of matters important to the industry.

The several street, suburban, and interurban electric railways composing the membership of this association have long felt that their several activities were largely local.

When the membership of this association became advised that this bill, S. 2646, proposed in express terms to include interurban and suburban electric railways, they became apprehensive that such inclusion would result in the employees of these several hundred electric railways being forced into the national steam railroad brotherhoods, thus bringing about burdens which could not be borne by these electric carriers.

Heretofore the Congress in dealing with the transportation problem of the United States has dealt in the main with the national question and has specifically refrained from dealing with the situation covering suburban and interurban electric railways, which to a large extent operate locally in the several communities where their services are rendered. This is particularly true with reference to labor legislation. In the transportation act of 1920, Title III thereof, section 300, in the definition of "carrier" the Congress specifically excepted these electric lines, using the following language in the definition of "carrier," quoting from the act:

> Except a street, interurban, or suburban electric railway not operating as a part of a general steam railroad system of transportation.

The electric railway industry is not advised of the reasons impelling the authors of the bill in question to specifically include interurban

and suburban electric railways. If the proposed bill is enacted and not amended to exclude the interurban and suburban electric railways of the country, it will inevitably follow that the employees of these roads will be forced into membership in the national steam railroad brotherhoods, resulting in increased operating expenses by way of increased wages and the adoption of working rules imposing costly penalty conditions.

These railways are dependent largely for ther gross income from the support of the people living in the immediate neighborhood adjacent to their several lines. The financial condition of these properties for the last 8 or 10 years has been very bad and is universally known so to be.

These enlarged street railways have been subjected to the most deadly automobile competition, both by public carriers and by the operation of private automobiles, both in the carriage of passengers and in the carriage of property. The major portion of the revenues of these railways is derived from local passenger fares, which are and will continue to be necessarily lower than the passenger fares established on the steam railroads. In the operation of these electric railways in and out of cities they operate longitudinally over streets and in most instances over the same tracks with local street railways and largely in conjunction and cooperation with strictly urban street railway employees.

The larger part of these electric railways do not have contractual relations with organized labor, but in those cases where such contracts exist they are, generally speaking, with the Amalgamated Association of Street and Electric Railway Employees of America, which includes in its membership to a large extent the street railway employees of the United States.

The mileage of the average suburban or interurban electric railway is short. Its service is rendered to meet local conditions that develop from day to day in the immediate neighborhood.

The wage scale in existence on the interurban and suburban electric railways in the United States is from 25 to 50 per cent less than the wage scale in existence on the steam railroads of the United States. The wage scale in existence on these electric lines is arrived at by a fair comparison of what men and women of similar qualifications get in the ordinary walks of life for service requiring a similar degree of skill, such as in the police department, the fire department, the several governmental departments of the cities and counties, and the retail trades in the territories through and in which they operate.

The character of the service performed by the greater number of the employees of suburban and interurban electric railways is such that the classification prescribed for the steam railroad employees is not comparable and can not justly be said to at all cover the class and character of work performed by these electric railway men.

Many of these electric railways maintain and operate an ever increasing number of motor vehicles for the transportation of persons and property, finding it necessary to enter that line of industry to meet the competition of organized commercial carriers by automobile in the same territory and to feed and supplement the service of their own lines. If the suburban and interurban electric railway employees are to be included in national legislation, there is justification for

including the large number of independent carriers engaged in the transportation of persons and property in competition with these electric carriers.

The Labor Board in construing the provisions of section 300 of Title III of the transportation act held that it had no jurisdiction over interurban or suburban electric railways not operating as a part of a general steam railroad system of transportation, thereby following the clear intent of the Congress to exclude such local electric railways from the scheme of national labor legislation.

In the amendment to the interstate commerce act, carried into effect by the adoption of the transportation act, the Congress recognized that these electric railways are to a large extent local in their activities and influence, and therefore specifically excepted all street, suburban, and interurban electric railways from the provisions of those amendments, unless and in those cases only where such electric railways operated in all particulars on a parity with the steam railroads or as a part of some steam railroad system, such as the electrified portions of main trunk lines and suburban service that had been electrified and extended in some parts of the country, but which had theretofore been operated by the steam railroads and with steam engines.

In the brief time available after the fact was made known to the electric railways that it was proposed to make a new and radical departure from their past condition, so far as working conditions and wages were concerned, we have inquired of the membership of this association for information showing the conditions existing on the several properties and which can be compiled and filed later if it is deemed desirable by the committee. The responses from more than one hundred and fifty companies indicate that the average mileage of these suburban and interurban electric railways is much less than one hundred miles per company, some of them being very short. Where there is a larger mileage it consists of many short lines radiating from centers of population. Practically all of these electric railways operate an extensive local street car business and a very large percentage of their employees are street car employees. This response indicates that the average wage scale is approximately 55 cents per hour. Many of these railways are found to carry a flat guaranteed minimum wage of approximately $125 per month, or a guaranty of 8 to 10 hours' work per day.

The response indicates that many of them have accumulated a large deficit during the last few years, are struggling to continue service, and are constantly facing demands for lowered fares. The financial condition of these electric railways has been such during the last few years that they find themselves unable to finance additions and betterments in the open market except at a very high rate of interest, if at all. The only exceptions to this condition are those roads so situated where the stockholders are able to keep putting up new money in the hope that they will be able to save their investment or have auxiliary revenue from other sources, such as the sale of light, heat and power.

The responses made in answer to our inquiry indicate that it is the opinion of the industry that the adoption of this bill and its application to the several suburban and interurban electric railways will add from 35 to 100 per cent to the annual pay roll of the respective

roads. None of these electric railways can stand that increased burden. The rate of fare in most communities is now as high as can be established without resulting in diminishing returns or in many instances the sudden and complete destrcution of the traffic.

There is no more logic for including suburban and interurban electric railways not operating as a part of a general steam railroad system of transportation than there is for including all the urban street car systems in the United States or of including all of the motor-vehicle transportation companies, taxicabs, and hotel busses operating in the several communities in which these electric railways operate. It is true that many of the last-named agencies are not engaged in interstate commrce, yet it is also true that the suburban and interurban electric railways not operating as a part of a general steam railroad system of transportation are only engaged in interstate commerce in a comparatively small degree.

It is clear from the statements presented on March 18 by the proponents of this proposed legislation that they did not have any logical reason for or serious intention of including the suburban and interurban electric railways not operating as a part of a general steam railroad system of transportation, because they did not once refer to such electric railways, and for the further reason that Mr. Robertson in his statement said as follows:

> The basis of these relations lies in agreements arrived at through collective bargaining. There is not a railroad in the United States that is operating without such agreements to-day, and not one which could function effectively for a month in the absence of such agreements.

It is clear that he did not have the electric railways in mind, for of the 153 electric suburban or interurban railways answering our inquiry only 46 have agreements with any labor organization, local or otherwise, and 107 have not agreements whatever, and only 5 of the reporting companies have agreements with any of the national railroad brotherhoods, and these latter due to situations peculiar to them alone.

It is our earnest request that you seriously consider whether it is advisable, in view of all the circumstances, to further add to the burdens of these struggling instrumentalities of local transportation, and it is our hope that after mature consideration you will see your way clear to recommend to the committee that if legislation of this character is passed, the interurban and suburban electric railways not operating as a part of a general steam railroad system of transportation be excluded from the provisions of the proposed law by appropriate amendment.

Mr. RICHBERG. Mr. Chairman, ordinarily I would not suggest an interruption, but this is certainly in the interests of harmony.

Might I suggest that the proponents of this bill are not here to voice any opposition to the exclusion of these roads. I can explain the situation in simply a word how it arose.

Under the Newlands Act it appeared that the electric interurbans were covered. At least the statement was made by Congressman Esch on the floor of the House when that question was asked as to why the Newlands Act was not repealed by the transportation act, that the transportation act itself did not make provision for the electric and interurban roads except so far as they were operated as a part of the general railroad system, and that therefore in order not to remove those roads from some existing benefits of the Newlands Act, the Newlands Act should not be repealed.

Now, with that history in mind, it was the thought of the proponents of this bill, following the general program of not changing the existing legislation, not making radical changes, that within the scope of this bill in so much as it repeals the Newlands Act specifically, these electric lines should be included.

So far as the proponents of the bill are concerned, I wish to make the broad statement, but it applies absolutely to the present objection, that the general scope of the transportation act is what is in their mind to be covered by this proposed legislation, and the inclusion of the electric and interurban lines in this form suggested by them merely because of the fact that in the repeal of the Newlands Act in this proposed bill they would be entirely removed from such protections as might come under that act.

Now, if the roads themselves and the employees of the roads do not want to come within the terms of this act, it certainly would not be the desire of the proponents of this bill to attempt to ask Congress to force them to come within the terms.

I simply wanted to state the basis for that.

Mr. KARR. I hope that you will let us out now.

STATEMENT OF BIRD M. ROBINSON, PRESIDENT AMERICAN SHORT-LINE RAILROAD ASSOCIATION, WASHINGTON, D. C.

Mr. ROBINSON. Mr. Chairman, the short-line railroads will require a little time in which to present their case. Our general counsel, Mr. Cain, will make a general statement of our attitude, and we have about 10 witnesses here selected to represent various kinds of roads from various sections of the country, from Florida to Texas and Minneapolis. Those witnesses will only take about five minutes each, but Mr. Cain will take possibly an hour.

Will you go on now? We are very anxious to finish this afternoon, and will not take very long when we reach the witnesses.

Senator GOODING. I hope that we may get through to-day, Mr. Chairman.

The CHAIRMAN. Have you heard the testimony presented by the railroads?

Mr. ROBINSON. We have.

The CHAIRMAN. Is your testimony substantially different?

Mr. ROBINSON. Yes; as to showing different conditions. Our general position is in accord with what has been presented, but we very earnestly desire the privilege of presenting to the committee the situation relating to these short lines and showing how serious the application of this bill as it is drawn, or as it probably could be amended is as to these lines. We very earnestly desire the opportunity to present those facts.

The CHAIRMAN. I hope you will not take two hours to reiterate it.

Mr. ROBINSON. Shall we proceed?

The CHAIRMAN. Yes.

STATEMENT OF BEN B. CAIN, GENERAL COUNSEL AMERICAN SHORT LINE RAILROAD ASSOCIATION

Mr. CAIN. I appear as general counsel for the American Short Line Railroad Association. I also speak as an officer of the Gulf, Texas & Western Railroad, a short-line railroad situated in the State of Texas.

Mr. Chairman and gentlemen of the committee: This bill as we view it is so far reaching in its effect upon the short-line railroads, as well as the public, and the situation of these two interests has been so little dealt with that we feel it will not only be helpful to the committee but is necessary in the interests of both the short-line railroads and the public that I point out as briefly as I can how they are affected under this bill or will be affected if this bill shall become a law.

First I want to deal with the effect upon the short-line railroads. In my discussion, using the term "short-line railroad," I intend it to mean that class of carriers of limited mileage which are operated independently of the other railroads, commonly called "trunk-line railroads."

There are in the United States 570 of that kind of railroads, serving the public in the transportation of freight and passengers.

Senator HOWELL. Mr. Chairman, may I ask a question right here? What proportion of those are rated as Class I roads?

Mr. CAIN. I think there are 18, Senator.

Senator HOWELL. Eighteen out of the 570?

Mr. CAIN. Out of the 570; yes, sir. That is my best recollection.

Now, these 570 railroads are from 2 miles in length up to something over 400. We are going to offer to the committee a list of these railroads merely to be filed before we are through.

Most of these short-line railroads prior to the war were functioning with the promise of successful financial operation.

Senator HOWELL. Mr. Chairman, might I ask another question here? How do you define a short-line railroad?

Mr. CAIN. I just stated, Senator Howell, that my definition for the purpose of this presentation would be that a short-line railroad is a railroad of limited mileage relatively speaking, not owned or operated by another railroad commonly called a "trunk line" or "system" railroad.

Senator HOWELL. When you say "limited mileage," what would be the upper limit?

Mr. CAIN. Certainly not over 500 miles. Most of them are really less than 100 miles, but we have some members of our organization independently operated that are over 400 miles, I think one member, and they should be and are classed as short-line railroads, both by the commission and by the general public.

I was just saying that prior to the war these carriers were doing fairly well, but on account of the increased cost of operation and the declining revenues occasioned by the ever-increasing active and potent competition of the motor truck and the passenger bus most of them are now operating without any net operating income.

I should say, and I think it is a safe statement, that the majority of them are doing little more than earning operating expenses, whereas there are 150 of them that do not earn operating expenses.

Senator DILL. May I interrupt you?

Mr. CAIN. Yes, sir.

Senator DILL. Previous to the war and previous to this act, the transportation act, those roads were being considered as operating in intrastate commerce, not under the Interstate Commerce Commission?

Mr. CAIN. I was going to tell you that they are generally intrastate railroads, as you stated; but they come under the jurisdiction

of the commission applying to all roads that engage in interstate commerce, and in that way they would report to the Interstate Commerce Commission and be under the commission.

Another reason why these railroads are financially suffering, and, as I might add, are on the brink of bankruptcy, they are all short haul carriers. Of course, you can well understand that the road that suffers most in competition with truck transportation, as well as motor-bus transportation, is the short-haul road.

I do not believe that it will be possible, without we have some change in regard to these short and weak carriers, that they can continue to function, and the hope of these roads is—and, as you all know, hope is perhaps the most helpful phase of the human mind—they have hoped that there will come about consolidation or something of that kind that will enable them to become or to continue as units in the transportation machinery. I mention that because the natural question that will arise in your minds is: Well, how is it, if these roads are not earning money, that they continue to operate? It is simply because the people who own them continue to provide—and I digress here to say that they are owned locally as a general rule. Many of them start through industries, such as lumber mills and mining concerns, but after becoming railroads and engaging in transportation people went along and located there, and in addition to that many of the State legislatures passed laws requiring them to incorporate. Others, of course, were built by local interests because there were towns and cities and localities in the farther sections of the country, more remotely situated sections, that, as they believed, out of self-preservation or inspired by a love of locality and a desire to bring themselves in touch with the rest of civilization, and so these people went down in their pockets and organized and built a number of these little railroads.

Now, the bill as we see it, will necessarily increase the cost of operation, and we think will result in ruin to a number of them. The reason it will increase the cost of operation, perhaps, should be stated briefly.

In the first place, it will necessitate, if they are put under the classification of the Interstate Commerce Commission, which is incorporated in this bill, and are put under the rules and regulations that apply, it will necessarily increase the number of men employed. At the present time, as I have stated, these roads on account of being of short mileage do not require the constant service of the men in any one particular place or capacity. A man may be a locomotive engineer and at the same time he will undertake to repair his engine and act in the capacity of a mechanic. He may be a locomotive engineer and actually serve as the superintendent of one of these little railroads.

Now, if you are going to apply this classification it will be necessarily increase the number of men, and in that way add to the pay roll and the financial burden.

Again, it will raise the standard or the scale of the wages that are paid by these roads. That might be disputed. It might be said, "Well, these boards will adjust that. They will take that into consideration." Speaking from experience in the past, we believe that if this law is passed and these roads are subjected to its provisions, that they will instantly be brought under the control of national labor organizations.

They will be compelled, we believe, to become members of these national organizations, out of a necessity for having some voice, as all Americans want to have, in the selection of tribunals which pass upon their property rights and personal happiness.

I want at this point to state the experience of these railroads and why we so much fear and so strongly believe that it will result in control of these roads through the national organizations.

When the railroads went back to private control there was pending a dispute which originated during Federal control and which the private managements inherited from the Railroad Administration. Anticipating the functioning of the Labor Board, bipartisan committees which had been appointed under or at the suggestion of the President of the United States, as I recall it, had been acting, holding conferences with regard to the demand for increased pay on the part of the railroad employees on the Government roads.

Before the board was organized these committees had had meetings with regard to the increase in wages, and when the board was organized the first question that arose was whether or not the demands of these men, or the dispute which had arisen, applied to any other roads than the railroads which had been represented in conferences or which had been under Federal control.

It developed before the board, both from statements of the employees, representatives of employees, as well as the representatives of the railroads, that there were a number of railroads—all of them short-line railroads—that had not been under Federal control, and immediately it was proposed by the representatives of the labor organizations to act for the employees on these roads, and it was agreed that the representatives of the trunk-line railroads would undertake to get representation of such as wanted to be represented by their committee.

Senator HOWELL. May I ask a question? How many of the short-line railroads were under Federal control?

Mr. CAIN. I do not think there were more than a dozen, if there were that many, Senator. I know of only three of my own knowledge. One of them was my own railroad, and another was a member of our organization, and another large one.

Now, the action of the national organizations at that time, I think, is not different from what the action of the national organizations would be under this law. They sent out to the local officers or general officers of local organizations throughout the country a schedule of wages which were being demanded of the trunk-line railroads and required the local officers to make demand upon the other railroads, these short-line railroads, for the same scale of wages.

Senator DILL. And the same classifications?

Mr. CAIN. The same classifications. I will read from a statement that was sent out at that time:

> National standardization of wages with proper differentials is our aim, and every railroad and carrier in the United States, or part thereof, which is not shown in the list presented your representatives by the employers' committee, which list is quoted herein, should be handed a copy of the accompanying proposition and called upon to say whether it will agree to or decline same in full, or whether it has or will delegate its authority to the railroads' executives committee.

This circular was sent out over the signatures of the 18 persons named as representing the employees.

In addition to this circular a special circular styled "Special Circular No. 1" was sent out by the grand chief engineer of the Brotherhood of Locomotive Engineers, which I read to you and which is in full as follows:

> GRAND OFFICE BROTHERHOOD OF LOCOMOTIVE ENGINEERS,
> EXECUTIVE DEPARTMENT,
> *Cleveland, Ohio, April 7, 1920.*
>
> *To all general chairmen in the United States:*
>
> The inclosed letters of instructions regarding the cooperative wages movement should be carefully read and instructions carried out. This is necessary in order to be in a position to appeal the case to the Labor Board that has been created under the new law of 1920. At this time this board has not been named by the President, but no doubt will be in the near future. In the meantime we can be taking the necessary steps to be ready to present our case. We do not expect that your requests will be granted by your company. This action on your part is made necessary by the law before we can appeal.
>
> Under no circumstances will you accept anything less than the requests. Make no compromise settlement of any kind. Notify this office promptly of the reply you receive from your management. We realize the time as fixed is short, but we believe if all of you act promptly it can be done.
>
> Yours fraternally,
>
> W. S. STONE, *G. C. E.*
>
> Attest:
>
> WILLIAM B. PRENTER, *F. G. E.*

Now, I read that not for the purpose of recalling an unpleasant situation, but merely to emphasize, or rather to support, the statement I have made as to our belief as to what will happen if this becomes a law.

We think, passing from that feature of it, that it is impracticable and unnecessary to be applied to short-line railroads.

In the first place, the number of men on short-line railroads is exceedingly limited as a rule.

I have here a tabulation of short-line railroads which has been made in our office, but prior to discussing that or presenting it to the committee I should inform you that when this bill came to our notice, or rather, we understood there was to be a hearing, we sent out a questionnaire to the short-line railroads, which will be furnished later, which called for answers from all of the short lines covering the following facts:

> How many employees of all kinds and subordinate officers have you?
>
> Have you now, or have you had in the past, any formal contract or agreement with your employees about rates of pay, rules, or working conditions?
>
> Have you any such agreement with any brotherhood or union relative to pay of your employees and rules or working conditions? If so, with what organizations and for what kind and number of employees?
>
> Are any of your employees members of any brotherhoods or unions? If so, how many?
>
> Have you been having and are you now having any controversy with your employees over rates of pay, rules, and working conditions? If so, to what extent?
>
> Have you had strikes to such extent as to interfere with service to the public?

Now, we have answers from 150 of these roads, and answers are still coming in, which will be filed with the committee, or rather a tabulation, in order to be as brief as possible, and I want to file with the committee this tabulation as far as it has gone, but call your attention to some facts before doing so.

(The tabulation referred to, is here printed in full, as follows:)

Replies of member lines, American Short Line Railroad Association, to questionnaire sent out regarding Senate bill 2646

Name of railroad	How many employees of all kinds, and subordinate officers have you?	Have you now or have you had in the past any formal contract or agreement with your employees about rates of pay, rules, or working conditions?	Have you any such agreement with any brotherhood union relative to pay of your employees and rules of working conditions? If so, with what organizations, and for what kind and number of employees?	Are any of your employees members of any brotherhood or union? If so, how many?	Have you been having and are you now having any controversy with your employees over rates of pay, rules, and working conditions? If so, to what extent?	Have you had strikes to such extent as to interfere with the service to the public?
Aberdeen & Rockfish R. R	64	No	No	1	No	No.
Abilene & Southern Ry	77	No	No	10	No	No.
Alabama Central R. R	24	No	No	No	No	No.
Appalachian Ry. Co	27	No	No	No	No	No.
Arcade & Attica Railroad corporation	45	No	No	3	No	No.
Akron, Canton & Youngstown Ry. Co	608	Yes	B. of L. E.; B. of L. F. & E.; O. R. C.; B. of R. T.; I. A. of M.; I. B. of B. H.; I. B. of E. W.; B. of R. C. M. of A.; S. H. W.	Nearly all employees eligible for unions indicated.	No	No.
Apache Ry		No	No	No	No	No.
Ashley, Drew & Northern Ry	44	No	No	20 per cent	No	No.
Atlantic Northern Ry	12	No	No	1	No	No.
Augusta Northern Ry	29	No	No	1	No	No.
Augusta R. R	10	No	No	2	No	No.
Batesville Southwestern R. R	16	No	No	No	No	No.
Beaver, Meade & Englewood R. R. Co	10	No	No	No	No	No.
Bingham & Garfield Ry. Co	200	No	No	90 per cent	No	No.
Bloomburg & Sullivan R. R	38	No	No	4	No	No.
Brooklyn Eastern District Terminal	284	No	No	Some; exact number unknown; perhaps 10 or 15.	No	No.
Brownstone & Middletown R. R. Co	6	No	No	No	No	No.
Buffalo, Union-Carolina R. R	29	No	No	No	No	No.
Butler County R. R. Co	79	No	No	14	No	No.
Butte, Anaconda & Pacific Ry. Co	421	Yes	O. R. C.; B. R. T.; B. of L. E.; I. E. W. and L. M. T. C.	200	No	No.
Cache Valley R. R. Co	7	No	No	No	No	No.
Cambria & Indiana R. R	196	No	No	No	No	No.
Caldwell Traction Co	7	No	No	No	No	No.
Campbells Creek R. R. Co	90	Verbal agreement to pay trunk-line wages pending Labor Board decision.	See No. 2 column	6	No	No.
Caro Northern R. R	16	No	No	No	No	No.
Central Ry. of Arkansas	20	No	No	No	No	No.
Central West Virginia & Southern R. R	33	With trainmen only	With trainmen only, through local committee.	Trainmen	No	No.
Central Wisconsin Ry	26	Verbal agreement with nearly all classes.	No	No	No	No.
Charles City Western Ry. Co	25	No	No	No	No	No.
Charlotte Harbor & Northern Ry. Co	220	Only conductors, trainmen, enginemen, firemen, agents, and operators.	48	60 (all train and shop forces, agents, and operators).	No	No.
Chattahoochee Valley Ry. Co	93	No		No	No	No.
Cliffside R. R. Co	12	No	No	No	No	No.
Colorado & Southeastern R. R Co	19	Yes	No	5	No	No.
Columbia, Newberry & Laurens R. R	210	Verbal now; formerly written.	No	Majority are members of union.	No	No.
Combs, Cass & Eastern R. R	43	No	No	No	No	No.
Coudersport & Port Allegany R. R	55	Verbally	No	7	No	No.
Cumberland & Manchester R. R. Co	125	No	No	Very few	No	No.
Dansville & Mount Morris R. R. Co	25	Yes	No	No	No	No.
DeKalb & Western R. R. Co	45	No	No	No	No	No.
Detroit United Lines	2,713	Have agreement with the Amalgamated Association of Street and Electric Railway Employees of America, covering the rates of pay and working conditions for the trainmen. This agreement covers 1,004 employees and is the only one in effect between the lines mentioned and any of its employees.			Yes; 18 months ago. Was arbitrated.	Not for past 5 years.
Dover & Southbound R. R. Co	6	No	No	No	No	No.
Due West R. R. Co	7	No	No	No	No	No.
Eastern Kentucky Ry. Co	65	Yes; with each class of employees.	No	3	No	No in more than 30 years.
East Tennessee & Western North Carolina R. R.	204	No	No	33	No	No.
East Texas & Gulf Ry. Co	8	No	No	No	No	No.
Elberton & Eastern R. R. Co	58	No	No	No	No	No.
Electric Short Line Ry. Co	80	Formerly 1917–1922. None now.	No	15	No	No.
Ettrick & Northern R. R. Co	10	Yes	No	No	No	No.
Fernwood, Columbia & Gulf R. R. Co	100	No	No	20	No	No.
Flint River & Northeastern R. R. Co	31	Only with engineers and conductors.	No	5	No	No.
Fort Smith, Subiaco & Rock Island R. R. Co	40	No	No	No	No	No.
Garyville Northern R. R	51	No	No	1	No	No.
Georgia, Ashburn, Sulvester & Camilla Ry. Co	68	Only with engineers and conductors.	No	8	No	No.
Georgia Northern Ry. Co	121	do	No	15	No	No.
Greene County R. R. Co	25	With trainmen	No	No	No	No.
Greeneville & Northern Ry. Co	39	No	No	No	No	No.
Greenbrier & Eastern R. R	34	No	No	4	No	No.
Gulf & Sabine River R. R	100	No	No	No	No	No.

Replies of member lines, American Short Line Railroad Association, to questionnaire sent out regarding Senate bill 2646

Name of railroad	How many employees of all kinds, and subordinate officers have you?	Have you now or have you had in the past any formal contract or agreement with your employees about rates of pay, rules, or working conditions?	Have you any such agreement with any brotherhood union relative to pay of your employees and rules of working conditions? If so, with what organizations, and for what kind and number of employees?	Are any of your employees members of any brotherhood or union? If so, how many?	Have you been having and are you now having any controversy with your employees over rates of pay, rules, and working conditions? If so, to what extent?	Have you had strikes to such extent as to interfere with the service to the public?
Aberdeen & Rockfish R. R	64	No	No	1	No	No.
Abilene & Southern Ry	77	No	No	10	No	No.
Alabama Central R. R	24	No	No	No	No	No.
Appalachian Ry. Co	27	No	No	No	No	No.
Arcade & Attica Railroad corporation	45	No	No	3	No	No.
Akron, Canton & Youngstown Ry. Co	608	Yes	B. of L. E.; B. of L. F. & E.; O. R. C.; B. of R. T.; I. A. of M.; I. B. of B. H.; I. B. of E. W.; B. of R. C. M. of A.; S. H. W.	Nearly all employees eligible for unions indicated.	No	No.
Apache Ry		No	No	No	No	No.
Ashley, Drew & Northern Ry	44	No	No	20 per cent	No	No.
Atlantic Northern Ry	12	No	No	1	No	No.
Augusta Northern Ry	29	No	No	1	No	No.
Augusta R. R	10	No	No	2	No	No.
Batesville Southwestern R. R	16	No	No	No	No	No.
Beaver, Meade & Englewood R. R. Co	10	No	No	No	No	No.
Bingham & Garfield Ry. Co	200	No	No	90 per cent	No	No.
Bloomburg & Sullivan R. R	38	No	No	4	No	No.
Brooklyn Eastern District Terminal	284	No	No	Some; exact number unknown; perhaps 10 or 15.	No	No.
Brownstone & Middletown R. R. Co	6	No	No	No	No	No.
Buffalo, Union-Carolina R. R	29	No	No	No	No	No.
Butler County R. R. Co	79	No	No	14	No	No.
Butte, Anaconda & Pacific Ry. Co	421	Yes	O. R. C.; B. R. T.; B. of L. E.; I. E. W. and L. M. T. C.	200	No	No.
Cache Valley R. R. Co	7	No	No	No	No	No.
Cambria & Indiana R. R	196	No	No	No	No	No.
Caldwell Traction Co	7	No	No	No	No	No.
Campbells Creek R. R. Co	90	Verbal agreement to pay trunk-line wages pending Labor Board decision.	See No. 2 column	6	No	No.
Caro Northern R. R	16	No	No	No	No	No.
Central Ry. of Arkansas	20	No	No	No	No	No.
Central West Virginia & Southern R. R	33	With trainmen only	With trainmen only, through local committee.	Trainmen	No	No.
Central Wisconsin Ry	26	Verbal agreement with nearly all classes.	No	No	No	No.
Charles City Western Ry. Co	25	No	No	No	No	No.
Charlotte Harbor & Northern Ry. Co	220	Only conductors, trainmen, enginemen, firemen, agents, and operators.	48	60 (all train and shop forces, agents, and operators).	No	No.
Chattahoochee Valley Ry. Co	93	No		No	No	No.
Cliffside R. R. Co	12	No	No	No	No	No.
Colorado & Southeastern R. R Co	19	Yes	No	5	No	No.
Columbia, Newberry & Laurens R. R	210	Verbal now; formerly written.	No	Majority are members of union.	No	No.
Combs, Cass & Eastern R. R	43	No	No	No	No	No.
Coudersport & Port Allegany R. R	55	Verbally	No	7	No	No.
Cumberland & Manchester R. R. Co	125	No	No	Very few	No	No.
Dansville & Mount Morris R. R. Co	25	Yes	No	No	No	No.
DeKalb & Western R. R. Co	45	No	No	No	No	No.
Detroit United Lines	2,713	Have agreement with the Amalgamated Association of Street and Electric Railway Employees of America, covering the rates of pay and working conditions for the trainmen. This agreement covers 1,004 employees and is the only one in effect between the lines mentioned and any of its employees.			Yes; 18 months ago. Was arbitrated.	Not for past 5 years.
Dover & Southbound R. R. Co	6	No	No	No	No	No.
Due West R. R. Co	7	No	No	No	No	No.
Eastern Kentucky Ry. Co	65	Yes; with each class of employees.	No	3	No	No in more than 30 years.
East Tennessee & Western North Carolina R. R.	204	No	No	33	No	No.
East Texas & Gulf Ry. Co	8	No	No	No	No	No.
Elberton & Eastern R. R. Co	58	No	No	No	No	No.
Electric Short Line Ry. Co	80	Formerly 1917–1922. None now.	No	15	No	No.
Ettrick & Northern R. R. Co	10	Yes	No	No	No	No.
Fernwood, Columbia & Gulf R. R. Co	100	No	No	20	No	No.
Flint River & Northeastern R. R. Co	31	Only with engineers and conductors.	No	5	No	No.
Fort Smith, Subiaco & Rock Island R. R. Co	40	No	No	No	No	No.
Garyville Northern R. R	51	No	No	1	No	No.
Georgia, Ashburn, Sulvester & Camilla Ry. Co	68	Only with engineers and conductors.	No	8	No	No.
Georgia Northern Ry. Co	121	do	No	15	No	No.
Greene County R. R. Co	25	With trainmen	No	No	No	No.
Greeneville & Northern Ry. Co	39	No	No	No	No	No.
Greenbrier & Eastern R. R	34	No	No	4	No	No.
Gulf & Sabine River R. R	100	No	No	No	No	No.

Replies of member lines, American Short Line Railroad Association, to questionnaire sent out regarding Senate bill 2646—Continued

Name of railroad	How many employees of all kinds, and subordinate officers have you?	Have you now or have you had in the past any formal contract or agreement with your employees about rates of pay, rules, or working conditions?	Have you any such agreement with any brotherhood union relative to pay of your employees and rules of working conditions? If so, with what organizations, and for what kind and number of employees?	Are any of your employees members of any brotherhood or union? If so, how many?	Have you been having and are you now having any controversy with your employees over rates of pay, rules, and working conditions? If so, to what extent?	Have you had strikes to such extent as to interfere with the service to the public?
Hanover Ry	8	No	No	No	No	No.
Hillsboro & Northeastern Ry. Co	14	No	No	1	No	No.
Hooppole, Yorktown & Tampico R. R	8	No	No	No	No	No.
Hoosac Tunnel & Wilmington R. R	56	No	No	No	No	No.
Intermountain Ry. Co	63	No	No	No	No	No.
Kalamazoo, Lake Shore & Chicago R. R. Co	8	No	No	No	No	No.
Kanawha, Glen Jean & Eastern R. R. Co	40	No	No	No	No	No.
Kansas City, Kaw Valley & Western	131	No	No	25	No	No.
Kentucky & Tennessee Ry	120	Yes	No	Unknown	No	No.
Kosciusko & Southeastern R. R. Co	21	No	No	1	No	No.
La Crosse & Southeastern Ry. Co	42	No	No	Train service	No	No.
Lancaster & Chester Ry. Co	55	No	No	No	No	No.
Lawndale Ry. & Industrial Co	19	No	No	1	No	No.
Leavenworth & Topeka Ry	50	No	No	1	No	No.
Ligonier Valley R. R. Co		No	No	No	No	No.
Marianna & Blountstown R. R. Co	32	No	No	4	No	No.
Marinetta, Tomahawk & Western R. R. Co	50	Verbal only	No	Yes; number unknown	No	No.
Marion Ry. Corporation	12	No	No	1	No	No.
Mason City & Clear Lake R. R	60	No	No	No	No	No.
Maryland & Pennsylvania R. R. Co	300	Only with men in train and engine service.	No	20	No	No.
Michigan R. R. Co	625	With conductors and motormen.	With Amalgamated Association of Street & Electric Railway Employees of America, covering conductors and motormen only.		No	No.
Middletown & Unionville R. R. Co	35	No	No	3	No	No.
Midland Continental R. R. Co	40	No	No	25 per cent	No	No.
Milwaukee Electric Railway & Light Co	5,500	General labor contract.	Employees' Mutual Benefit Association.	No	No	No.
Minneapolis & Racine River Ry	50	Yes	No	5	No	No.
Minneapolis, Anoka & Cuyuna Range Ry	21	No	No	No	No	No.
Minneapolis, Northfield & Southern Ry	95	No	No	20	No	No.
Missouri & Kansas Ry	50	No	No	No	No	No.

Missouri Southern R. R	45	With maintenance employees.	No	50 per cent	No	No.
Mississippi Southern R. R	188	No	No	1	No	No.
Morehead & North Fork R. R. Co	30	No	No	No	No	No.
Motley County R. R	6	No	No	1	No	No.
Nacogdoches & Southeastern R. R	80	No	No	Train and enginemen	No	No.
Nevada Copper Belt R. R	19	No	No	4	No	No.
Nevada County Narrow Gauge R. R	34	No	No	No	No	No.
Nevada Northern Ry. Co	275	Train service, engine service and shop-employees only—direct.	No	85	No; not since unions were abrogated.	No; not since direct method of negotiations became effective.
New Castle & Ohio River Ry	11	No	No	No	No	No.
New Holland, Higginsport & Mount Vernon R. R.	25	No	No	1	No	No.
New Jersey, Indiana & Illinois R. R. Co	82	No	No	Majority of enginemen, firemen, brakemen, and conductors.	No	No.
New York Dock Ry	115	No	No	7	No	No.
New Orleans & Lower Coast R. R	75	No	No	No	No	No.
Northeast Oklahoma R. R. Co	188	Yes	Yes; B. of R. T.; B. of L. E.; and B. of L. F. and E.	6	No	No.
Oklahoma Ry. Co	575	No	No	A few	No	Only once, in 1911; failed.
Oneida & Western R. R. Co	75	No	No	No	No	No.
Pacific Coast R. R	210	Train service only	No	145	No	No.
Paris & Mount Pleasant R. R	100	No	No	Unknown	No	No.
Pearl River Valley R. R	49	No	No	No	No	No.
Pickens R. R	13	No	No	4	No	No.
Pittsburgh & Susquehanna R. R. Co	31	No	No	No	Yes; wage increases are being continually demanded.	No.
Prescott & Northwestern R. R. Co	50	No	No	Unknown	No	No.
Rahway Valley R. R. Co	25	No	No	2	No	No.
Ray & Gila Valley R. R. Co	23	No	No	No	No	No.
Roanoke R. R. Co	18	No	No	No	No	No.
Rockingham R. R	40	No	No	3	No	No.
Sacramento Northern R. R	510	No	No	8 per cent	No	No.
Salt Lake & Utah R. R	203	No	No	10	One 7 years ago, none since.	Only one partial interruption in 11 years.
Salt Lake, Garfield & Western Ry	15 to 40	No	No	3	No	No.
Savannah & Atlantic Ry	425	Yes	No	All engineers, conductors, trainmen, and some shopmen.	No	None; had shop strike last year, but no interruption to service.
Shearwood Ry	30	No	No	No	No	No.
Shreveport, Houston & Gulf R. R. Co	14	No	No	No	No	No.
Sibley, Lake Bisteneau & Southern Ry	43	No	No	No	No	No.
Southern New York Ry	132	Yes; with some trainmen.	Yes; Amalgamated Association of Street and Electric Railway Employees.	50 per cent	No	Yes.

Replies of member lines, American Short Line Railroad Association, to questionnaire sent out regarding Senate bill 2646—Continued

Name of railroad	How many employees of all kinds, and subordinate officers have you?	Have you now or have you had in the past any formal contract or agreement with your employees about rates of pay, rules, or working conditions?	Have you any such agreement with any brotherhood union relative to pay of your employees and rules of working conditions? If so, with what organizations, and for what kind and number of employees?	Are any of your employees members of any brotherhood or union? If so, how many?	Have you been having and are you now having any controversy with your employees over rates of pay, rules, and working conditions? If so, to what extent?	Have you had strikes to such extent as to interfere with the service to the public?
South Manchester R. R. Co	16	No	No	No	No	No.
St. John & Ophir R. R. Co	11	Yes	Yes	4	No	No.
Sugar Land Ry	192	No	No	Most of conductors and engineers.	No	No.
Susquehanna & New York R. R	120	With train service men and shop craftsmen.	No	100 per cent of train service men and all shopmen.	No	No.
Talbotton Ry	8	No	No	No	No	None in 47 years.
Tabor & Northern Ry	11	No	No	No	No	No.
Tavares & Gulf R. R	40 to 60	No	No	5 or 6	No	No.
Tennessee & North Carolina Ry	60	No	No	2	No	No.
Tennessee, Kentucky & Northern R. R	25	No	No	4	No	No.
Texas Short Line Ry. Co	20	No	No	5	No	No.
Texas Southeastern R. R	30	No	No	5	No	No.
Townsville R. R	12 to 15	No	No	No	No	No.
Uintah Ry	75 to 100	No	No	No	No	No.
Union Point & White Plain Ry	22	No	No	No	No	No.
Ursina & North Fork Ry	10	No	No	No	No	No.
Valley & Siletz R. R. Co	52	No	No	No	No	No.
Verde Tunnel & Smelter Co	70	No	No	28	No	No.
Virginia Blue Ridge Ry	23	Only as to overtime	No	No	No	No.
Warren & Ouachita Valley Ry	30	No	No	2 or 3	No	No.
Washington & Lincolnton	42	No	No	2	No	No.
Washington-Virginia Ry	276	No	No	No	No	No.
Waterloo, Cedar Falls & Northern Ry	300 to 500	No	No	Unknown—some perhaps.	No	No.
Western Allegheny R. R. Co	150	Verbal only, with one exception, when a labor dispute was referred to Labor Board.	No	All trainmen and enginemen and some shopmen.	No	1 in 1920 for a week.
West Virginia Midland R. R. Co	45	No	No	2	No	Yes.
Wildwood & Delaware Bay Short Line R. R	33	No	No	2	No	No.
Wilmington, Brunswick & Southern R. R	35	No	No	2	No	No.
Winfield R. R. Co	22	No	No	5	No	No.
Wisconsin & Michigan R. R	61	No	No	Train and enginemen.	Trainmen are demanding an increase.	No.
Woodstock Ry	24	No	None	3	None since war	No.
York Utilities	65 to 70	Verbal only	No	No	No	No.

The first road on the list is the Aberdeen & Rockfish Railroad. It has only 64 employees; the Abilene & Southern Railway, 77; the Alabama Central, 24.

Senator GOODING. Have you the average there so far as you have gone?

Mr. CAIN. That is more than the average, Senator, I mean by that, the average would be less than the number I have given there.

Senator GOODING. I was just going to suggest that it is not necessary to take up the time of the committee to go through all of them.

Mr. CAIN. I only want to call your attention to the fact that generally speaking the numbers are less than 50. I should say the average is far less than 50 employees on the whole road.

Senator GOODING. Yes.

Mr. CAIN. And you appreciate from that that the men are combination employees. A man can work on an engine or he can work on a boiler or he can work on some other work, or he superintends the office and dispatches what trains there are to be dispatched and telephones. Therefore, if you pass this bill, or if this bill becomes a law, it would be necessary to increase the operating costs beyond the ability of these little carriers to pay.

Now, under the column "Have you now or have you had in the past any formal contract or agreement with your employees about rates of pay, rules, or working conditions?" There is not as much as 10 per cent of these roads that have ever had contracts with their employees.

Senator GOODING. A record of strikes there, have you that information?

Mr. CAIN. Yes; we will furnish that information also.

Then we say, "Have you had strikes to such extent as to interfere with the service to the public?" and they all are answered "No." One answers, "No; not since direct method of negotiation became effective," and another answers "Only once, in 1911," and another answers, "None in 47 years," and one answers, "One in 1920 for a week."

Senator GOODING. Those are the only exceptions?

Mr. CAIN. Those are the only exceptions.

Senator DILL. That is 154 roads?

Mr. CAIN. Yes; one hundred and fifty odd.

Senator GOODING. I think the committee has a pretty general idea of the condition on these branch roads.

Mr. CAIN. Now, you will be interested to see how few of these employees are members of labor organization. There are some of the members of labor organizations as a matter of course, but not many of them. I do not know of a single short line railroad—that is within my own knowledge, and I have a general knowledge; I do not say that it is true—but I know of no short-line railroad that has a local organization on its line, but they do in some cases have a man who is a member of the nearest local organization on some other railroad, on a larger railroad, and in that way all general officers may represent members of the local organization.

Senator GOODING. What percentage would you say; have you a record on that?

Mr. CAIN. No; I have no record over what is given here.

Mr. ROBINSON. Not 2 per cent.

Mr. CAIN. I have not worked out the percentage, but it is negligible, and the committee will see that by the numbers that are members in this tabulation it is so small as to be neglibible.

Now, we have had some experience, and we have some witnesses here who will go into that and give you concrete cases, where these men who happen to be members of national organizations, have been instructed to demand increases of pay. Of course, these unions naturally and perhaps properly want to standardize the wages of the men who are members of those unions. I have no quarrel with them for that, as I believe they will have no quarrel with us for not wanting to have a law passed that will absolutely force suspension in many cases, and in other cases drive us to bankruptcy or to receivership.

Now I want to call your attention just briefly to some of the replies that were made by member lines to the letter we sent out showing the difference in the character of service and the living conditions on these short-line railroads as compared with the condition on the larger roads.

Briefly stated, you can well understand that the same standard as to qualifications for railroad service is not required on these little roads as is required on the larger roads. The men on these smaller roads could not stand the physical nor the technical examinations necessary to be had on the larger lines, Therefore we employ men who are old, men who, as I say, are infirm in health and could not stand the physical tests applied on the larger roads, and who have not the technical knowledge necessary to handle the trains or to engage in service upon the larger lines.

The living conditions upon these roads are quite different from what they are upon the larger roads. Men go out in the morning and come back home at night. They are with their families and not required to go to hotels and pay expensive board bills while they are in the service, but they can minimize their expenses by living at home, and if they are away from home at noon, taking their lunches along with them in the service.

The danger of personal injury on a short-line railroad, generally speaking, is negligible compared with the danger on larger roads in train operation, and it is likewise less dangerous in the handling of machinery. The engines on short lines, as well as other machinery, are small and simple as compared with the machinery used on the larger roads.

The effect upon the nervous system of men in the train service, especially on short lines, amounts to nothing. I want to tell you right here of an instance within my own experience that is illustrative of the character of some of the men on the short-line railroads that could not go anywhere else.

I know of one instance where an engineer lost an eye in the service of a company during the war. It was an unavoidable accident, and when he came out of the hospital the superintendent presented to the general manager of that little railroad the question, "What can we do with this man? He has been one of the best employees we have had. He can not go anywhere else and get employment." And the reply was, "Keep him on his engine."

That was five or six years ago, and to-day that man is running engines on that road that are now handling the passenger service on that road, although one of his eyes is gone. He could not go any-

where else and get employment. That merely illustrates the character of many of the men in service on these smaller roads.

There is another feature—and I am mentioning these features, gentlemen, to show you that the wage scale is lower, and it is lower because the men are willing to take it, and they are willing to take it for the reasons I am giving.

You take the continuity of the work. The man on the short-line railroad that has a job of any kind knows on the 1st of January just how many days or how many months he is going to work in the year. He knows he is going to work every day and every month if he is capable and his health permits and he wants to work, and he can count with certainty upon the amount of money he is going to realize. There is no fluctuation in the service.

Whereas, on the trunk-line railroads a man may be given the full advances, but on account of the fluctuation he gets less wages in the end. When you take into consideration that fact, and the expenses he is under, then the man who earns a great deal less wages in the service of the short-line railroads is the better off.

The CHAIRMAN. Does the labor board take into consideration those things?

Mr. CAIN. The Railroad Labor Board does, but we have found——

Senator DILL. You have no trouble with the labor board?

Mr. CAIN. Well, we have been before the labor board, and I will file with the committee a statement showing how many cases. Out of the 570 railroads we have had 205 cases before the labor board during the entire time.

Senator DILL. And they were satisfactorily settled?

Mr. CAIN. Yes, sir. Settled.

Senator GOODING. Are they all settled up to the present time, practically?

Mr. CAIN. Mr. Seward, are there any pending cases?

Mr. SEWARD. Seventeen pending cases.

Mr. CAIN. Mr. Seward is our secretary in charge of the department of labor in Chicago, and I called on him for the information.

Now, I will leave this branch of the subject, if the committee will pardon me for reading a few typical statements, not only typical statements, but showing the different character of these short-line railroads, and I am going to file the entire statement with you. This is a tabulated statement, or rather a condensed statement, made from the replies which were sent us by these one hundred and fifty odd railroads to the questionnaire which was sent by our organization.

The CHAIRMAN. Just what is the object of reading these, if you are going to put them into the record?

Mr. CAIN. Why, I have no object except to permit the committee to ask us questions with regard to it if they see fit to do so.

The CHAIRMAN. Do you want them in, Senator?

Senator GOODING. I would put them in the record. I do not think you need to read them. I understand the witnesses here will go over these conditions on these railroads in a personal way, so I do not think it is necessary to indulge in that. You will have it pretty well covered if all 10 witnesses appear here.

Mr. ROBINSON. I think that is true, of course.

Senator GOODING. So I would just place them in the record and not take up the time of the committee by reading them.

Mr. CAIN. Very well, I will do that, rather than trespass upon the time of the committee by reading them. Here is a statement which is preceded by the questions which were asked these roads and the replies they have made, which I will file with the committee.

(The statement referred to is here printed in full as follows:)

QUESTIONS

1. How many employees of all kinds and subordinate officers have you?
2. Have you now or have you had in the past any formal contract or agreement with your employees about rates of pay, rules, or working conditions?
3. Have you any such agreement with any brotherhood or union relative to pay of your employees and rules or working conditions? If so, with what organizations, and for what kind and number of employees?
4. Are any of your employees members of any brotherhoods or unions? If so, how many?
5. Have you been having and are you now having any controversy with your employees over rates of pay, rules, and working conditions? If so, to what extent?
6. Have you had strikes to such extent as to interfere with the service to the public?
7. Would the interposition of adjustment boards or any other kind of outside participation aid or interfere with the conduct of the transportation service your company owes to the public?
8. Give as concisely as you can any and all pertinent facts that will show how the proposed bill will affect your company, its employees, and the service.

Replies of member lines, American Short Line Railroad Association, to the following questions regarding Senate bill 2646:

7. Would the interposition of adjustment boards or any other kind of outside participation aid or interfere with the conduct of the transportation service your company owes to the public?
8. Give as concisely as you can any and all pertinent facts that will show how the proposed bill will affect your company, its employees, and the service.

REPLIES TO QUESTIONS 7 AND 8

For replies to questions 1–6 see tabulated statement on preceding pages.

ABILENE & SOUTHERN RAILWAY

7. Would interfere.
8. We could not give the service we are giving if we had to pay so-called standard rates of pay. Short lines that have practically nothing to haul for six or eight months each year could not exist on the same rules and rates of pay applicable to lines that pull tonnage trains and that do not call their crews until they have tonnage trains to handle.

AKRON, CANTON & YOUNGSTOWN RAILWAY CO.

7. We do not think adjustment boards would serve any useful purpose. We believe they would result in multiplying the number of cases carried to such a board and that its decisions would be carried up to the general board by the losing party.
8. We do not believe the proposed bill would serve any useful purpose, but on the contrary would place additional obstacles in the way of the carriers in their effort to provide adequate transportation service at fair rates. It will entail at least $600,000 per year which must come out of the taxes paid by the taxpayers of the country, and the present burden of taxation is already excessive.

ALABAMA CENTRAL RAILROAD

7. It would interfere very seriously.
8. We would eventually have to pay "standard wages"; thereby increasing our expense. Most of our employees would then lose their jobs, for they are not "standard men" for reasons they can not help and which do not impair their

usefulness to a road with one train. Our train crew is partly composed of men competent for the main line except for the physical examination. They are satisfied with us and we are satisfied with them. Many short lines are manned by the same kind of men. I believe the bill will eventually force all such men into other occupations not so remunerative as the ones they now have.

ARCADE & ATTICA RAILROAD CORPORATION

7. The interposition of adjustment boards or any other kind of outside participation would, we believe, interfere seriously with the conduct of the transportation service our company owes to the public.

8. The enactment of the bill would take away our legal right which we now have of fixing wages, rules, and working conditions, as well as depriving us of the privilege of dealing with our employees direct. We further believe, in view of conditions which exist on our railroad necessitating frequent changes in wages, rules, and working conditions in order to keep our expenses at least within reach of our revenues, that such a law would work serious hardship in the continuance of the operation of this railroad.

ATLANTIC NORTHERN RAILWAY

7. Any interference would tend to develop discontent among the employees.

8. The pertinent fact a bill like that would do to this company is it would force standard wages, which a railroad of this kind can not afford to pay and the service and working conditions of employees does not warrant. A short line's labor is not exposed to danger and disagreeable working hours as trunk-line labor has to perform.

AUGUSTA NORTHERN RAILWAY

7. Would interfere.

8. Our relations with our employees have at all times been most cordial, resulting in full cooperation for the highest possible degree of service to the public. Any outside interference will largely destroy this situation.

BATESVILLE SOUTHWESTERN RAILROAD

7. Interpositions of adjustment board or any other kind of outside participation would interfere with us.

8. The proposed bill would effect and cripple us and no doubt force us to the wall, as our business does not justify the payment of union scales.

BEAVER, MEADE & ENGLEWOOD RAILROAD CO.

7. Yes; would interfere with it. We would have to quit business.

8. Our road is 7 miles in length. Passenger business is nothing account jitney service. Our connections only run a freight train three round trips per week, consequently we only run our train three times per week to connect and handle the freight to and from our connections. We pay our men a monthly salary and they do anything there is to do on the days that the train does not run, such as keeping the motive power in condition, repairing cars, fixing fences, etc., which they are glad to do. They are contented and happy. They are not docked for a few days off when others can double up and do their work for them. Why should they not continue as they are?

BINGHAM & GARFIELD RAILWAY CO.

7. The interposition of adjustment boards or any other kind of outside participation would seriously interfere with our operations.

8. The proposed bill will adversely affect our company, its employees and the service. The prosperity or depression and the extent of operation of the Bingham & Garfield Railway Co. are dependent upon and measured by that of its proprietary copper company and the copper industry, thereby rendering it impossible to avoid more or less frequent readjustments of wages and operating conditions which would be impractical if national adjustment boards are established. Furthermore, we know from past experience that it is to the best interest of the company and its employees to conduct our operations on an open-shop basis.

BLOOMSBURG & SULLIVAN RAILROAD CO.

7. Hurt the operation.

8. Line too small. Only employ two crews, and if business in passenger traffic continues to fall off will only have one train crew.

BROOKLYN EASTERN DISTRICT TERMINAL

7. Would seriously interfere with the conduct of our operations.

8. The passage of the Senate bill 2646 would inject labor organizers and union officials into our organization, who would interfere with their pay and working conditions. Our employees would prefer to deal with us as individuals and have advised us to this effect on numerous occasions.

BROWNSTONE & MIDDLETOWN RAILROAD CO.

7. The interposition or outside interference of the conduct of our very small line might be very serious.

8. Our road is primarily a plant facility and is operated as a rule under a small annual deficit, and any interference from outside with our rules and regulations and rate of pay would in all probability be a very serious matter, indeed, to us, and we protest against the inclusion of a small line or operation such as ours, under rules and regulations such as might be borne with by larger corporations.

BUFFALO, UNION-CAROLINA RAILROAD

7. Would seriously interfere.

8. It would destroy the harmony now existing between the road's employees and its officials. Would impair the discipline by lessening the control over the employees, which would tend to develop inefficiency and increase danger in operation. Would destroy the individual initiative in the force. Would close the service to any but members of the union, which is un-American in principle, and add not one single advantage to either employees or the road. The success in operating the road lies largely in the harmony existing in the force, and to interpose any law or contract would impair this and be disastrous in the extreme.

BUTLER COUNTY RAILROAD

7. The interposition of any boards of adjustment or other outside participating aid would interfere with the company's service to the public. In this way the direct result of such outside interference, which is really the proper word, would be a radical change in working conditions and wages sufficient to increase our expenses very materially. This in turn would necessitate a very radical curtailment in our service to the public.

8. In common with all short lines, our service is limited both as to volume and cost in the proportion that the traffic permits. This particular line is the outgrowth of a logging road. The territory so far opened up adjacent to and tributary with the road is very meager, and but for the logging operations of the proprietary interests would scarcely be able to operate, the business of the proprietary interest being approximately 66⅔ per cent of the total gross. We are hedged about by three strong roads, Missouri Pacific, Frisco on the north and the St. Louis Southwestern and St. Louis, Kennett & Southeastern connecting with the Frisco on the south. This makes it very difficult for the development of any through business or any competitive business.

A change of our present working arrangements, rates of pay and rules such as are proposed would place us practically on the same scale of expenses as Class I roads. It is estimated that these changes would increase our operating costs $37,000 a year. This company has not had sufficient earnings since 1913 to pay its fixed charges and the interest on its indebtedness. This deficit has amounted to about $37,000 a year. In view of the fact that there is no apparent way for our earnings to increase, but rather to decrease, the additional burden estimated above would practically force the line to cease operations. I believe that you will be able to secure sufficient witnesses near by which would obviate my appearance.

CACHE VALLEY RAILROAD CO.

7. Yes.

8. Our few employees are well satisfied with their wages and working conditions, and "outside" interference would be a detriment to all concerned.

CARO NORTHERN RAILWAY CO.

7. It would.

8. We wish to state we are opposed to the bills referred to (No. 2646, Howell; 7358, Barkley), and contented with present laws governing. Please put us on record as opposed to these bills.

CALDWELL TRACTION CO.

7. Yes.

8. With a small road such as ours, it is not necessary for any kind of an organization of employees, and for us to be bound by such unwieldy procedure as is provided for by the proposed law would be absurd, and could not possibly be of any advantage to the employees, but would work a serious hardship on the carrier. The added expense to the company would probably be prohibitive, and I doubt if it would be possible for such a road as this to exist at all under such a condition.

CAMBRIA & INDIANA RAILROAD CO.

7. In our opinion it would interfere.

8. We consider that the effect of the provisions of the railway labor bill will be adverse to the interest of this company, its employees, and the service, for the following reasons: (1) That it takes away from carriers the legal right of fixing wages, rules, and working conditions, and deprives them of the privilege of dealing with their employees direct; (2) that it places the national unions or brotherhoods in a position to force a "closed shop."

CAMPBELLS CREEK RAILROAD

7. Yes.

8. If the proposed bill should become a law, it would serve to coerce our employees to carry memberships in their respective labor organizations, and have the effect of destroying the value of personal relation between employer and employee that has been built up over a period of years. Our road serves principally coal mines, and there are seasons and periods during which these mines are not operated, and an individual agreement with our men makes possible the operating during these periods at considerable less expense than if we are governed by some labor organization and placed on the same basis as trunk line carriers.

CENTRAL RAILWAY OF ARKANSAS

7. Probably would interfere.

8. Probably increase wages to trunk line rates.

CENTRAL WEST VIRGINIA & SOUTHERN RAILROAD

7. To standarize wages on our line would mean bankruptcy.

8. We have a declining proposition and our employees see the situation and are satisfied with what we are paying them. They know that we are giving them all the business will stand. As stated above, if we were compelled to raise our wages and working conditions to that of larger roads we could not operate.

CENTRAL WISCONSIN RAILWAY

7. It would interfere, as we could not pay a higher wage and keep in operation.

8. We are paying wages that our men are well satisfied with, although much lower than the union scale. Our men are at home for every meal except dinner, are getting good wages, and to increase the scale to the union basis would certainly put us out of business, and a large territory of rich farming country would be left without a railroad.

CHARLES CITY WESTERN RAILWAY

7. Seriously interfere.

8. We have always been able to hire a good class of employees and have never had any labor troubles or disputes. But feel that outside interference would

destroy existing harmony between employees and company. Eighty per cent of present employees have been with this company over five years. Evidently they are satisfied.

CHARLOTTE HARBOR & NORTHERN RAILWAY CO.

7. Interfere materially.

8. It would no doubt bring about a very great effort from employees on short lines to have their wages increased, equaling trunk lines. which would in itself bankrupt many short lines. It would seem that without public representation would involve an increased freight rate, leaving employees at liberty to take any action they might elect against any particular property. The proposed bill plainly indicates class legislation, in that employees must belong to some union and be represented.

The inclusion of officials from train masters down would very materially, in my opinion, reduce the efficiency of the service of which the public would be the real sufferers. We can not have employees who are controlled by the men whom they are over. As far as the real benefit of a train master or official who would be influenced or controlled by such a law, would be absolutely nothing.

The classification of employees, particularly on short-line railroads, interpreted as trunk lines, would be of most serious consequence. Short-line railroads have not sufficient work to employ a man in one particular classification. He must be in various service, and if classified, it would tend, as I see it, to require a very great additional number of men to meet such classification. Any carrier who is forbidden to make an argument in its own interest and welfare would necessarily be at the mercy of whatever accusation or evidence was produced.

CHATTAHOOCHEE VALLEY RAILWAY

7. It would interfere with transportation service.

8. It would prevent the company from making a man-to-man agreement. It would create unrest among employees. It would prevent giving efficient service or services equal to that we are now rendering.

CLIFFSIDE RAILROAD CO.

7. Yes.

8. We think we will get along better and the public will be served better if we have no interference from anyone. Hope you will succeed in having the bill defeated.

COLORADO & SOUTHEASTERN RAILROAD CO.

7. We sincerely believe the interposition of an adjustment board or any other kind of outside participation would interfere with the conduct of the transportation service of our company which it owes to the public.

8. Our railroad operation is small and is more of a family affair. The management is in close contact with the employees all the time. The longest run of a train crew is 19 miles. Train crews are at home nearly every night in the year and most of the time they are at home for all of their meals. We are in position to furnish the employees houses at a rental of about one-third the amount it would cost them elsewhere. For these reasons we have no difficulty in getting along with our employees. We believe legislation which would compel us to deal with representatives of brotherhoods and unions would make the handling of our railroad operation ponderous and expensive. We would have to go through all the forms of dealing with our few employees that the trunk lines have to employ in dealing with a great number of employees and it is absolutelyunnecessary and unwarranted.

COLUMBIA, NEWBERRY & LAURENS RAILROAD CO.

7. In my opinion any adjustment board would tend to interfere with transportation service so far as the company is concerned.

8. I do not believe that the majority of the employees of transportation lines are in favor of the proposed bill. Most employees like to deal direct with the management when it comes to a question of pay and working conditions. The proposed bill, it seems to me, would tend to delay any controversy that might arise with employees, and certainly would put the roads to a very great disadvantage, and would have a tendency to hurt the service of all lines.

COMBS, CASS & EASTERN

7. Yes.

8. We feel that the proposed bill would be very unjust and dictatorial, telling us how to manage our own employees.

COUDERSPORT & PORT ALLEGANY

7. It would be a hindrance to this company.

8. This company being a short line located in a rural locality where working and living conditions are vastly different than in more congested districts would be put out of business to be compelled to pay trunk line or union wages; it would be disastrous also to our employees who own their homes and live comfortably here as they would be seeking employment other places, and many are beyond the age where other railroads would accept them. Also the community we serve would be without means of transportation and work indescribable hardships on them.

DE KALB & WESTERN RAILROAD CO.

7. We do not see any way outside interference would improve the service; our employees are well satisfied and work very closely for the benefit of all concerned, and would request we be left to work out our own rate of scales.

8. We are operating 16½ miles main line track, employing only one train crew, consisting of one engineer, one conductor, one fireman, and two brakemen; three section crews average six men to section. We have never had any trouble with our employees and believe better results can be obtained by the continuance of the present plan, as it very necessarily happens that we call upon the various men to perform work that under the contract plan would be classed as another job altogether and from various causes we much prefer and believe the manner in which we are now operating the best for service rendered the general public.

DETROIT UNITED LINES

7. The interposition of adjustment boards or any other kind of outside participation would, in our judgment, very seriously interfere with the transportation service rendered by the member company (the Rapid Railroad Co.) and its associated companies.

8. It is the opinion of our counsel that the proposed bill is of very doubtful constitutionality as an interference with the freedom of contract. In our opinion if the proposed bill was enacted it would have a decided tendency toward increasing the cost of transportation to the public, it being generally admitted that any legislation of the nature proposed tends to readjust wages and working conditions on a constantly rising scale. Another strong objection to the proposed act is the removal of the present freedom of negotiating between the company and employees enjoyed by both sides and the establishment of various expensive boards for the handling of affairs that, so far as our lines are concerned, are now very amicably adjusted to the satisfaction of both parties.

DOVER & SOUTHBOUND

7. Would interfere.

8. Our road has been operated at all times without question between employees and management, and service to public has been maintained in satisfactory manner. Any interruption by legislation or otherwise would seriously interfere with the continuance of such service.

DUE WEST RAILWAY

7. Interfere.

8. The finest harmony has always prevailed during the 16 years we have been running and we would hate to see such a law passed.

ELBERTON & EASTERN

7. Such interposition would in no way aid the conduct of the transportation service of these companies but would on the other hand so hamper them as to seriously interfere with their service.

8. The relation between these companies and their employees are at present being so harmoniously and satisfactorily handled and the possibility of the injection of outside influence is so far reaching that it is hard to estimate the detrimental effect that would result from the enactment of the law as outlined in your communication.

ETTRICK & NORTHERN

7. Yes; very much.

8. This line would immediately have to cease operation providing the brotherhood controlled the wages to be paid our employees. We are at present paying them satisfactory wages and men are satisfied.

FERNWOOD, COLUMBIA & GULF RAILROAD CO.

7. Yes; undoubtedly would interfere with the proper conduct of the transportation service.

8. The proposed bill would in all probability force a standard scale of pay on this company that would greatly effect its now lean earnings, probably to the extent of receivership, as the employees, especially in train service, are now paid all that the business on our line of railroad can possibly stand, and since our schedules are so arranged that each and every one of our train employees are able to and do eat two meals at home each day and sleep at home each night, they can well afford to work under our present scale of wages, and it has been said authoritatively that our men fare better as a whole and net more earnings than do the trainmen in similar positions on trunk-line railways, who maintain two or more homes, or have expenses at two or more places and not work regular, depending altogether upon the volume of business in certain periods, whereas on our line we employ regularly a certain number of men who are permitted to make a full month each month of the year. This also includes our one or two extra or relief trainmen in that we provide employment for them in other departments when not in train service. We believe the proposed bill would not be of substantial aid to our employees, as in all probability it would force upon the railroad rearrangement of its train schedules in an endeavor to meet any additional expenses as result of standard pay, and this change would probably, to some extent, cripple the transportation service that this road is and has for the past 12 years been giving to the public, and which it desires to continue to give.

FLINT RIVER & NORTHEASTERN

7. The interposition of adjustment boards or any other kind of outside participation would seriously interfere with the conduct of transportation service our company owes to the public, and would handicap us in such a way that it would only be a question of time when we would have to abandon our property and go out of business. We are having all we can do now to make ends meet. We pay our laborers in line with what laborers of other industries receive, and our relations with them have always been in complete harmony. To our minds, an intervention from outsiders would only create discord and dissatisfaction on all sides, which would greatly encourage strikes, etc., and poor service to the public would be in consequence thereof.

8. We are now being regulated on the amount we shall charge for our transportation service, which is the only thing we have to sell, and if we are forced to pay what the adjustment boards might designate to our employees, as above stated under question 7, it would only be a question of time when we would have to go out of business, the same as a number of other short lines, which were forced to abandon and dismantle their property, account of strangulation by outside interference. Unless we can receive relief of the demagogues, politicians, labor boards, unions, etc., we will be in the same fix.

GEORGIA, ASHBURN, SYLVESTER & CAMILLA

Same as for Flint River & Northeastern.

GEORGIA NORTHERN

Same as for Flint River & Northeastern.

GREENVILLE & NORTHERN

7. Would greatly interfere with our service.

8. At present we work all our men in different departments. For example, some days our car repair men do work on locomotives, other days if necessary they do track work. Our engineers are required to do repair work on loco-

motives. Our roadmaster is sometimes used as extra engineer. At times a section foreman is used as a fireman, etc. In other words we have no classification but our men work wherever necessary at any time necessary. Practically none of our employees are capable of holding positions of like capacity on trunk lines, and I am of the opinion that we are paying them more than they could earn elsewhere.

All of our employees are satisfied with their present pay and working arrangements. They all realize our company is losing money each month, and that we are paying them as much as we can on our present earnings. We pay no overtime and all our men are agreeable to do their work in a good manner and get through as soon as they can, there being no incentive to lag on the job. It can readily be seen how any other arrangement would tend to disorganize our service, how this spirit of cooperation would soon be destroyed, if the employees were classified and unionized.

HANOVER RAILWAY

7. At present it would not.

8. It would bring added expense to the company, causing poorer service to the public.

HILLSBORO & NORTHEASTERN

7. It would seriously interfere.

8. We want the right to deal direct with our employees. Unless we have this right we can not exist. The act of 1920 has reduced us from a dividend-paying road to a deficit road. This bill will only serve to increase our deficit and therefore hasten the time when we ultimately will suspend operations. All our men are satified now. Why change? If this bill becomes a law we will be subjected to domination by the unions, whereas now we are working as a family, all harmony, no friction. We are too small a proposition to be subjected to outside control. In fact, there is no justification for same from any cause or source.

HOOPPOLE, YORKTOWN & TAMPICO RAILROAD

7. Yes; we want to run our line ourselves.

8. We could not pay the union scale; it would put us out of business. We pay our engineer $100 per month; fireman, conductor, each the same price, $100 per month.

HOOSAC TUNNEL & WILMINGTON RAILWAY

7. Would interfere.

8. For 35 years we have operated without friction with our employees and with mutual confidence and respect. We feel that this success is attributable to our ability to deal directly with employees without outside dictation or interference. Any change under these circumstances would be highly unfortunate.

KALAMAZOO, LAKE SHORE & CHICAGO

7. Interfere greatly.

8. Practically take out of the hands of the management to contract with men on a basis agreeable to both parties.

KANAWHA, GLEN JEAN & EASTERN

7. The interposition of adjustment boards or any kind of outside participation would interfere seriously with the harmonious relationship between our management and our employees and would therefore interfere with the service we owe the public.

8. The most serious effect of the proposed bill would be that it would bring a third party into our affairs and prevent the harmony we get without any outside influence. We have always found our employees well able to take care of their own interest when they can come in direct contact with the management as they can on our road.

KANSAS CITY, KAW VALLEY & WESTERN RAILROAD

7. Seriously interfere.

8. Many of our men perform several different services. If made more specialists, added to our other difficulties, might bring operating costs to the breaking point. We are now competing with busses and trucks with no maintenance-of-

way charges, with low labor costs, with no governmental control, and able to shift their working conditions, fares, etc., at will. If we are subjected to further control or increased rigidity of operation it may break us.

KENTUCKY & TENNESSEE RAILWAY CO.

7. Yes.

8. We feel that the proposed bill would open up an avenue to stir up considerable trouble between our employees by reason of the union interference. We do not recognize the union in any form and have let this fact become known to our employees that such recognition would be an impossibility. We pay our men practically what they would receive if they were in the service of a trunk line, and if our financial status would permit we would pay better wages for such employees.

If our wage scale should be placed under the jurisdiction of a union wage adjustment board, we would without a doubt be subjected to higher rates of pay, which would eventually bankrupt our company. We have never had any labor trouble with our employees, as we have always been able to work out satisfactory adjustments whenever such an occasion arose. To my way of thinking, Senate bill 2646 would have a tendency to create unrest among employees instead of acting as an intermediary to reduce such situations.

KOSCIUSKO & SOUTH EASTERN

7. Yes; we are not in position to pay standard wages, and if we had to pay standard wages it would mean suicide for this property.

8. It would be almost impossible for this company to continue to operate under agreement with employees, as it would materially affect the industry with which this company is closely allied, and account of the short haul and small division it would be impossible for this company to continue to operate as a common carrier.

LANCASTER & CHESTER RAILWAY CO.

7. It would interfere. If we were forced to enter into agreements with brotherhood or unions we would have to pay a higher scale of wages than is possible for us to do.

8. Our employees are satisfied and we have never had any trouble with them. We pay them what we can afford and treat them as fellow employees. In fact, we are like a large family. Any employee can approach me at any time and it is our policy to deal justly and kindly with them. I came up from the ranks and can see both sides without prejudice.

LA CROSSE & SOUTHEASTERN

7. If this adjustment board were created it would interfere with our service to the public rather than help it.

8. We always deal direct with our employees and have not had any trouble in regard to wages paid. We never have paid standard wages to trainmen and have never had any agreements. Therefore we would be very much against this board in as much as we have been getting along much more satisfactorily under the present conditions than if we had to take everything up with the board first.

MARIANNA & BLOUNTSTOWN RAILROAD

7. Yes.

8. Short-line railroads should be excluded from any such laws. It is difficult for us to exist as at present. Laws of this kind would be of great detriment. The ultimate result would doubtless be discontinuance of operation.

MARION RAILWAY CORPORATION

7. We do not see where it would help and it might easily put us out of business.

8. To apply classification rules and wages applicable to larger roads would eat up all our revenue. We now pay fair wages for this rural section and employees are satisfied with pay and working conditions. The diversified work done by most of them would make classification a hardship to small roads and there should be, at least, an exemption of short lines. One extra all-round man takes care of our relief work. We could not afford to keep an extra man for each kind of work.

MARYLAND & PENNSYLVANIA RAILROAD CO.

7. As indicated by the statements hereinafter made under Item 8, it is my opinion that the interposition of adjustment boards or any kind of outside participation in the handling of matters between this company and its employees would not in any way aid in the ability of this company to furnish transportation service to the public, but would on the other hand interfere with its ability to do so.

8. (*a*) The conversion in a short while of what is now a reasonably, loyal, efficient, and contented body of 300 employees, into a disloyal and therefore inefficient and discontented group. (*b*) A large increase in the operating expenses of the company. The natural results of such conditions on the service to the public would (*a*) increase rates in order to provide funds necessary for increased costs of operation and/or (*b*) serious deterioration of the character of service now furnished the public, and/or (*c*) the possible abandonment of the road with the consequent injury to the people and industries now served by it, as well as the resulting loss to those who have invested in its securities.

MASON CITY & CLEAR LAKE RAILROAD

7. Would seriously interfere.

MIDLAND CONTINENTAL

7. Would interfere and is unnecessary.

8. This road is run on the "family plan," i. e., most all employees, except track laborers, who get standard wages, are on monthly basis with two weeks vacation yearly on pay and no deduction of pay for absence account of illness, pressing personal business, etc. Regular employees get year around work; extra men are hired by day during rush season. Everything is quiet and everybody happy; no night or Sunday work, only occasionally in rush season. The wages are less than trunk-line scale, but in a year the net income to employees average close to the net income of trunk-line employees, as there are no "terminal expenses" and men have three meals a day and sleep at home, and 11 months in the year have their evenings at home.

MINNEAPOLIS & RAINY RIVER

7. It would interfere.

8. Our rate of pay to employees would undoubtedly be increased, and our volume of business is such our line can not do it without operating at a loss.

MINNEAPOLIS, ANOKA & CUYUNA RANGE RAILWAY

7. Interfere.

8. (*a*) Employees now satisfied. (*b*) Road too small to come under boards. (*c*) Road now barely able to earn interest and preferred dividends. (*d*) Would probably force curtailment of passenger service, which is now cut in half.

MISSOURI SOUTHERN RAILROAD CO.

7. It would have a tendency to interfere in that it would disturb the present relationship of our employees.

8. It will deprive us of our legal right to negotiate with our own employees as in the past, which has always been satisfactory to both parties, and it would interfere with service to the extent of making it obligatory for employees to perform only one class of service, while we find it absolutely necessary and have always used our employees to do various classes of work regardless of any particular department they may be regularly assigned to.

MISSISSIPPI SOUTHERN

7. Interfere.

8. All this compromise machinery would be an intolerable nuisance to our small road and is not asked by our employees and would not be understood by our Mexican and negro employees.

MOREHEAD & NORTH FORK RAILROAD CO.

7. No.

8. This bill will practically turn over to the labor organizations of the country all of the railroads, including the short lines and the interurban lines, as also other classes of labor, as outlined by the bill, and the whole country will be subject to the demands of such labor organizations, and with such a law on the statute books you can be assured that it will be a big one, and it will eventually, from our point of view, control the Government by its power of vote. We would venture to say that if such a law were put into effect, covering the interurbans and short lines, such as we operate, it would simply put us out of business. With increased wages and the other expenses that would necessarily follow with the enactment of such a labor bill, we could not pay our bills, nor could we afford to operate our railroad. In fact, we would commence to junk our road at once, and we are satisfied that with the bus and truck competition for carrying passengers and freight these days one-half of the railroads would have to be junked, especially the weak ones.

Take, for instance, an investment by anyone in Chesapeake & Ohio stock in Kentucky. This stock costs about $76 a share; par value $100. They are paying 4 per cent dividends, which would figure about 5 per cent on the investment. Recently the Kentucky Legislature enacted a law that would take one-half of 1 per cent, which would reduce it to 4½ per cent. Then the surtax on incomes of anyone who has a sufficient income to reach it would reduce it further. Who wants to invest funds in railroads of the country that are unable to pay more than 4 per cent dividends, and under the existing earnings of the Chesapeake & Ohio this is about all they can stand? The same thing is true with many other railroads. We feel that railroad legislation should be let alone, and we further feel that all of the short lines should at once write their Representatives and Senators in regard to this matter.

MOTLEY COUNTY RAILWAY CO.

7. Yes.

8. It would possibly mean that we would have to pay standard wages and the road could not run. These boards have to be paid and it would further increase our overhead expenses. We don't need any interference from outside boards. Our employees are all satisfied.

NACOGDOCHES & SOUTHEASTERN RAILROAD CO.

7. It would likely interfere. We frequently employ men from trunk lines; some of them might be "in bad" with their organization. Again we sometimes employ young men and train them for service on trunk lines.

8. It would undoubtedly mean a "leveling up" of wages, eight-hour day, and all the other "wrinkles," and sooner or later bankruptcy, because public will not stand for increased rates, and trunk lines unwilling to increase allowances to the short lines.

NEVADA NORTHERN RAILWAY CO.

7. The interposition of adjustment boards or any other kind of outside participation would seriously interfere with the conduct of the transportation service our company owes the public.

8. The proposed bill would undoubtedly force unionization of employees with consequent domination by union officers, resulting in demands not representative of local conditions, and in involvement in questions and disputes unrelated to our service. Past records show conclusively our road would be involved in strikes with consequent interruption of service that would not otherwise occur, causing unnecessary loss to the company, the employees, and the public.

NEW CASTLE & OHIO RIVER RAILWAY

7. We think it would.

8. None of our employees are now members of either the brotherhoods or unions of any kind. We fear that if this bill becomes a law we will have trouble with our employees.

NEW ORLEANS & LOWER COAST RAILROAD

7. Would eventually force this company to suspend operation basing this claim on past operation.

8. This company has operated for the past 30 years without having either work agreement or wage scale with any class of its employees, and as a result never has been forced to include in its operating expenses any of the high standards of wages and with this feature in its favor has not in the past seven or eight years been able to show an earning. All employees have been paid sufficiently to remain entirely satisfied. For this company to be forced to make work agreements and wage schedules to be handled as this proposed bill apparently is intended and the manner in which disputes are scheduled for settlement it would not mean only a heavier deficit, and would deprive this company of funds to up-keep the property in such condition as would make it safe for transportation to say nothing about funds to make repairs to its motive power and rolling stock. I am of the opinion that should short-line railroads be legislated against in such manner as is prescribed in this bill it would only be a question of time until a great percentage of the lines would be forced out of existence.

NEW HOLLAND, HIGGINSPORT & MOUNT VERNON RAILROAD

7. Yes; could not pay their prices nor manage men to suit income, etc.

8. While earnings are small and territory undeveloped, requiring only cheap men, we would have to pay higher prices for much less service and could not manage men to suit short-line conditions at all.

NEW JERSEY, INDIANA & ILLINOIS RAILROAD CO.

7. Most disastrously. All of our men have nice jobs, can all live at home, have no block signals, or opposing trains, no high-speed trains. Such an adjustment board would be harmful to the men and to the general public.

8. Such a bill would be a catastrophe. In one year after the adoption of such a bill, the New Jersey, Indiana & Illinois Railroad would cease to operate. We have a number of jobs where splendidly paid, handy men are doing the work. For example, we have four men in our mechanical department averaging better than $200 per month each, and are very well satisfied. They are men who know and do a half dozen kinds of work, such as boiler making, electrical, inspection and all kinds of repairs, and in fact, any work to be done on or around an engine. To hire a man for the various jobs to be done on an engine (we have four locomotives) would require a force of 15 men, 11 of whom would be laying around nine-tenths of the time doing nothing.

NORTHEAST OKLAHOMA RAILROAD CO.

7. The interference of any outside person or any board of any nature would certainly interfere with our very pleasant employee relationship and probably tend to disrupt the service now furnished the public.

8. The proposed bill is certainly very vicious, in that it would immediately force a point of controversy on every electric line and every short line and would prevent negotiation for settlements of differences on a man-to-man standpoint. At present we have a relationship with our employees which would be impossible under the jurisdiction of the proposed bill. Favors are shown the company by the men and to the men by the company, which are mutually satisfactory and which would be impossible under strict union rule; for instance, we allow every train service employee one full day off each month with full pay. We carry group insurance for all employees. I certainly hope the proposed bill will not become a law.

OKLAHOMA RAILWAY CO.

7. The interposition of adjustment boards, or any other kind of outside participation would interfere materially with the conduct of the transportation service of this company, as it would continually stir up unnecessary agitation and dissatisfaction, which, under our present plan, we have been entirely free from.

PARIS & MOUNT PLEASANT

7. Interfere seriously.

8. We are of the opinion that passage of any bill forcing us into these agreements with employees would enormously increase our expenses and probably force us to discontinue operation.

PEARL RIVER VALLEY RAILROAD

7. We operate only 25 miles of main line track and consequently our train crews can not be assigned to particular classes of train service as is maintained on main lines, for instance, one train crew performs all of our trainwork including freight, mixed passenger, and switching. Under main line rules the possibility is that the minimum rates of pay would prevail for each of these classes of service, furthermore, the conditions on a line such as ours are not comparable with those on main line railroads. Our train employees have continuous employment and our schedules are so arranged that they are at home for meals and layover is always at their home station. Therefore I feel that our rates of pay, in view of our conditions of service, are in the long run as advantageous to the employees as main line rates of pay as they are given steady employment and are at no expense for meals or lodging away from their home station.

8. The establishment of the rules in these two bills would no doubt seriously handicap the operation of our line and would cause friction between management and employees where none now exists, and would permit an outside organization to practically dictate the rates of pay and working conditions to both the management and employees. The conditions prevailing on short lines are not comparable with those on trunk lines and while we see no need for such legislation as is proposed, even for trunk lines, if it is the sense of the Senate and the House that such legislation should be enacted, certainly the short lines should be exempted from these provisions.

PICKENS RAILROAD

7. Yes.

8. Our company can not afford to pay main line salaries.

PITTSBURGH & SUSQUEHANNA RAILROAD CO.

7. Yes.

8. As the whole fabric of the bill tends to the shortening of working hours and the increasing of operating expenses, in that the small short line railroads will be required to establish similar rates of pay and working conditions to those of the large trunk line railroads, without a corresponding increase in freight rates the enactment of this bill would put this railroad in bankruptcy and out of business.

PRESCOTT & NORTHWESTERN RAILROAD CO.

7. We are not in need of any aid of interference on any adjustment board or any other outside agency to aid us and the interference of an adjustment board would be more harmful than good.

8. Our employees are entirely satisfied with the treatment that they are receiving by our company. The only good that an adjustment board would do would be to cause union labor heads to proselyte among our men, cause dissatisfaction, and bring an interference with transportation service of our company.

RAHWAY VALLEY RAILROAD

7. Yes; it would interfere with our interests as well as the public. Don't want any adjustment boards in our business.

8. It would have a tendency to create trouble between management and employees, where heretofore relations have been pleasant and agreeable, and all differences settled by mutual consent of the parties directly interested.

RAY & GILA VALLEY RAILROAD CO.

7. We believe adjustment boards or any other kind of outside participation would seriously interfere with service.

8. It is our opinion that the provisions of the proposed bill would adversely affect our company, its employees, and the service. At the present time railroad employees—who represent 1 per cent of the total working force of its proprietary copper company—receive rates of pay comparable with work of equal responsi-

bility in other departments of the copper company's mines and mill. If this small group of employees becomes subject to the regulations and awards of boards of adjustment, they would probably receive special privileges and rates of pay based upon conditions foreign to those that prevail locally. This would naturally cause other employees to expect similar treatment which could not be granted if the industry is to survive and our own particular activities continue. As it is now everybody is treated alike, and all are contented.

ST. JOHN & OPHIR RAILROAD CO.

7. Don't think it would make any difference with this line.
8. Our trainmen are all on monthly pay account of having to do repair work on locomotive. We run four days a week. Eight hours constitute a day's work. Present Labor Board is satisfactory.

SUGAR LAND RAILWAY CO.

7. Would seriously interfere. Our line, as most other short lines, has conditions that necessarily must be handled locally and are now lined up in such a way as to working conditions, rates of pay, etc., that all concerned are entirely satisfied, so far as we know. Have had no controversy as to working conditions, rates of pay, etc.

SHEARWOOD RAILWAY CO.

7. Would prove very hurtful.
8. The company's employees are like a small family. Each are known by name to the officers. All are satisfied, feeling that they are receiving all the company can pay and continue to properly meet its transportation needs. Therefore, any outside interference would prove hurtful and create unrest and dissatisfaction where contentment now reigns.

SHREVEPORT, HOUSTON & GULF

7. Yes; our labor would prefer to remain as it has been. Any interference from outside source would disorganize our labor.
8. Owing to the short length of our line, which is only 11 miles long, our workdays are very short and our straight monthly salary basis without loss of time is very satisfactory to all employees which the above record of no labor trouble since our road was constructed in 1906 shows that our present working conditions and scales of pay are entirely satisfactory to our labor. The proposed bill would take this matter out of our hands to some extent and cause this company as well as employees untold expense negotiating with Board of Mediation and Conciliation and numerous agreements that would not apply on sort lines such as ours.

SIBLEY, LAKE BISTENEAU & SOUTHERN

7. The interposition of adjustment boards or any other kind of outside participation would, according to our belief, seriously disturb operating conditions on our line. We have always worked together and have tried to treat our men fair and right not only as to wages but as to working conditions. The road is 27 miles in length and operates through a sparsely settled country. We are deeply in debt, and we believe any outside interference will only result in demoralization and serious trouble in our efforts to keep this property on its feet. With the exception of our track laborers we pay our men a monthly salary.
8. We have little or no hopes that the country which we traverse will develop. We have tried to sell our road to our trunk line connections, but without success. We simply could not operate the road under standard rules and wages as applied to trunk lines. If it is the desire of Congress to pass a railroad labor bill such as the bill referred to, I believe they should exempt short-line railroads. If action of this kind is not taken by Congress, legislation of the kind proposed will simply force many short lines to go out of business. It seems unnecessary for me to attempt to tell you just what effect this kind of legislation will have on the short lines. You have had wide experience and know perhaps better than I do the results that would follow passage of the bill proposed.

SOUTHERN NEW YORK RAILWAY

7. It would interfere.
8. If steam railroad scales of wages were in effect on this property existence would be longer possible.

SOUTH MANCHESTER RAILROAD CO.

7. The interposition of adjustment boards or any other kind of outside participation would not aid, and, undoubtedly, would interfere with the conduct of the transportation service this company owes to the public.
8. The limitation of this railroad makes it necessary for its employees to perform duties of various classification such as passenger, freight, and switching service. It is the presumption that any interposition of adjustment boards or any other kind of outside participation, regarding rates of pay, rules, or working conditions would undoubtedly bring about a disarrangement that would materially increase the number of employees and the expense of conducting the railroad, all of which would be entirely unnecessary and uncalled for. The employees of the road, as a rule, are quite contented and satisfied with their work. The turnover is very small and the majority have been in the employ for many years. It is probable that they would resent outside interposition of regulations, regarding rates of pay, rules, and working conditions, to the same extent as that of the management. The railroad at its best is not a paying proposition and any materially increased expense in its operations would undoubtedly put it out of business. There is no call for such legislation in so far as this railroad is concerned, and, on the contrary, it would be most detrimental.

SUSQUEHANNA & NEW YORK

7. Any outside participation in question arising between short-line railroads and their employees can only result in the lower morale and decreased efficiency in transportation service. The term "wage revision" as understood by the average labor union official means only "revision upward," would seem to show that rulings of any board which appear to conflict with labor's interest would not be enforced as long as the unions retain their present status of irresponsibility.
8. The passage of legislation as offered in House bill 7358 would further lower the morale of railroad employees, and in the case of the Susquehanna & New York Railroad, by reason of a probable increase in wage cost, would result in abandonment of the road or make necessary an increase in rates, as under present conditions earnings are insufficient to take care of fixed charges and maintain the property. If railroad wages and relations between the managers and employees are to become subject to further outside supervision, the only agency competent to direct such supervision is one having full knowledge of all branches of the business and responsible equally to the public, to employees, and to the employer, which supervision I believe should be with the Interstate Commerce Commission if taken out of the hands of the railroads' management.

TABOR & NORTHERN

7. In our judgment would interfere.
8. First, we believe it would put our company out of business, if passed, for reason that it would be impossible to operate under union scale, as it would require more employees and much overtime. Under present conditions our employees are satisfied, and we believe proposed bill would be a disadvantage rather than advantage to our employees and our company, reason that as long as employees and employer are agreeable and satisfied there should not be a law to cause them to become forced into some other conditions that neither would want.

TAVARES & GULF

7. It would interfere. We can settle our own differences with our employees.
8. We are paying much less than standard wages and are only paying for overtime prorata and outside interference would probably change this.

TENNESSEE, KENTUCKY & NORTHERN

7. To a very great extent.
8. The cost of operating trains would be increased from two to two and a half times present cost, would demoralize pleasant relations between employees and employer, and require at least a 50 per cent increase in present rates to pay for cost of present service, which the traffic would not bear. Contented employees would be made discontented.

TEXAS SHORT LINE RAILWAY CO.

7. Interfere.
8. Would make it impossible to operate.

TEXAS SOUTHEASTERN RAILROAD CO.

7. Interfere. No need for such an arrangement.
8. This bill would destroy the present cordial and satisfactory relations existing between management and men and would finally result in loss and inconvenience to the employees themselves.

TOWNSVILLE RAILROAD

7. It would interfere.
8. Only small railroad and could not afford to pay big salaries as men do not have to do as much work as they do on trunk lines.

UINTAH RAILWAY CO.

7. Would in our opinion be very detrimental to our service.
8. Many of our employees are drawn from ranch labor in Colorado and Utah who do not wish to join unions. We pay the same rates as D. & R. G.

URSINA & NORTH FORK

7. It would interfere very seriously.
8. Can not answer this question at this time.
The bill would put us out of business and compel the abandonment of the line, leaving a large section of country without any rail facilities whatever.

WASHINGTON-VIRGINIA RAILWAY CO.

7. Such interposition of adjustment boards would seriously interfere with our services to the public.
8. At present our tariff is as high as the traffic will bear. Any further expense in the matter of wages could not be passed on to the public by increasing rates, and therefore such a measure would be confiscatory. We are at present in the hands of receiver.

WATERLOO, CEDAR FALLS & NORTHERN

7. The intervention of a third person between the company and its employees would, we think, interfere with the harmony and understanding that has generally existed between this company and its employees.
8. This railroad could not survive any interference in its direct dealing with its employees. Under the closest management possible, even to the extent of deferring necessary maintenance, this railroad has not earned its interest charges on either its first mortgage bonds or preferred stock since 1917. We are suffering under the same conditions that are causing distress to most small steam and electric railroads, viz, the growing use of the motor vehicles. These conditions are of such common knowledge that judicial notice may be taken of them. The financial results of the operation of this railroad from January 1, 1918, to January 1, 1924, were as follows:

Net earnings after paying all operating expenses and taxes, which earnings are applicable to bond interest and preferred stock interest for the calendar years—

1918	$8,821.56
1919	38,252.25
1920	75,671.01
1921	45,034.57
1922	67,028.63
1923	29,900.38

The interest charges on this property are more than $300,000 per year. You will therefore readily see that this company has not earned its interest for the owners of the preferred stock and first mortgage bonds since 1917.

Prior to Federal control, this company had no union employees and no contracts of any kind with organized labor. During Federal control this railroad, complying with the requirements of the Director General of Railroads, negotiated contracts with practically all of the railroad labor organizations. The result was as follows:

Entire pay roll of the company for the calendar year 1917 prior to Federal control, $331,977.70; entire pay roll of the company for the calendar year 1919, result of Federal control rates and labor organization policy, $492,190.

Subsequent to Federal control this company abrogated all of its contracts with organized labor and reestablished the policies that were in effect prior to Federal control, and in passing it may be said that this was done without controversy with its employees. The first full calendar year subsequent to Federal control was the year 1921, and indicative of the different conditions the entire pay roll of this company during the calendar year 1921 was $439,115.54.

One of the greatest mistakes made during Federal control of railroads was to fasten upon the short lines and electric lines under Federal control the same abnormal wages and working conditions as prevailed upon the trunk line railroads and which were fixed by the Railroad Administration to meet competitive conditions in the commercial industries at the important terminals. For instance, wages and working conditions were set on the Pennsylvania Railroad to meet the abnormal wage and working conditions in the shipyards of the Atlantic coast. When these wages and working conditions were thus set, and, in passing, it may be said that they probably were necessary to fit the abnormal conditions in certain places, they were passed along to the small railroads under Federal control with the order to put them in effect without change. We, therefore, were in the illogical position of paying wages on this railroad under Federal control, at the small shop, for instance, located in Waterloo, Iowa, that were designed to meet competitive conditions in the Hog Island shipyards at Philadelphia. Not alone as to wages were these conditions true, but as to working conditions, overtime rules, etc. There was no semblance of necessity in applying wages and working conditions on this railroad to fit competitive conditions in the large terminals of the East, for these reasons:

First, the living costs in the small towns along the line of this railroad were much less than they were in the larger centers at which these abnormally high wages and abnormal working conditions applied.

Second, the conditions of employment were entirely different in so far as the intense work connected with the job was considered.

Third, in the classification of employees and the drawing of strict jurisdictional lines among the crafts there was entirely overlooked the conditions that existed in the average short line or small railroad shop with few employees.

The classification of employees and the drawing of strict jurisdictional lines on the little railroad therefore worked a particular injustice in that it required a much higher wage scale for many occupations. It read into much higher rates many employees that were not entitled to those rates. The contracts with organized labor forced on the small railroads destroyed the discipline and morale that was in effect prior to Federal control, and in passing it may be said that this was also true of conditions on trunk-line railroads. The little railroads without large organizations were compelled to spend useless hours and days meeting committees and listening to complaints and grievances that existed only, as a matter of fact, in the fancy of some of the more radical of the labor element. Men were looking for back-pay checks and spent a very large amount of time in trying to obtain back-pay checks when they should have been working for the interest of the railroad and the public. Additional clerks were made necessary to provide reports and in performing the additional clerical work required by all of these untoward conditions.

These things are mentioned merely for the purpose of indicating what will happen if Congress adopts the present labor bill outlined and includes the short steam and small electric railroads in the proposed bill. There is no necessity for attempting to deal with small, short, and weak line organizations on the same basis that the large and strong trunk lines are dealt with. The managements of these small properties, as a rule, are in daily and personal contact with substantially every employee on the property, and the intervention of a cumbersome and useless mediation or adjustment plan to care for conditions that do not and can not exist on small properties will simply mean the adding of that much pressure to an almost irresistible force that is now pushing the little railroad into bankruptcy and abandonment.

WESTERN ALLEGHENY RAILROAD

7. I would consider that the interposition of adjustment boards or any other kind of outside participation would seriously interfere with the conduct of our transportation.

8. We have local conditions with this line which are not similar to larger railroads nor to many short lines, and it has been our experience that outside boards or committees do not consider local conditions in rendering a decision. It is our firm belief that controversy between the employees and the company should be left entirely to be worked out between the two parties concerned.

WEST VIRGINIA MIDLAND

7. Of the opinion that it would interfere.

8. Any action that would place us on an equality with larger companies as to pay and working conditions would compel us to abandon operations, as we could not live under such restrictions and conditions.

WILDWOOD & DELAWARE BAY SHORE LINE RAILROAD

7. It would interfere with our service.

8. Our railroad being a short line with only 4 miles of main track permits our employees to be at home for all meals and every night. This creates a condition that no board or body of men could understand sufficiently at long distance to intelligently handle, as the application of stock forms, rules, and regulations will not suit our condition. The more regulations, supervision, and restrictions we have the greater our expenses will be, both in wages and expenses incident to controversies and adjustment of disputes. In addition, there will be loss of time and morale among our employees. Our total number of employees is so small in each department that if they were unionized the effect would not be beneficial. For instance, in case of a strike they could be replaced quickly. On the whole, we believe to attempt to unionize the short-line railroads would be a mistake as well as a disadvantage. Additional expenses will be incurred by the railroads. In some instances it would work a hardship on employees, who may lose their present positions thereby. Under the provisions of the proposed law the employer loses control over the employee, and a condition is created that breeds discontent, dissatisfaction, and demands based upon self-interest without regard to economic conditions, all of which will eventually lead to financial disaster for every short-line railroad, all of which are now struggling for an existence. When the employer can not employ whomsoever he pleases and the employee can not choose for whom he will work, then America loses its exalted place among the nations of the world and seeks the level of Europe, with its chaos and financial instability.

WILMINGTON, BRUNSWICK & SOUTHERN

7. Could not help but interfere.

8. We are a small road with an annual deficit of from $12,000 to $15,000. We employ local men on our road and the salaries, while they compare favorably with the salaries paid on other lines in this locality, are about half those paid by the trunk lines who have contracts with the unions. We have to change operating conditions on a moment's notice to meet varying conditions of traffic. We have never had any trouble with our employees and never will if we and they are left alone.

WINFIELD RAILWAY CO.

7. It would interfere materially.

8. The homes of our men are in a small town of a few hundred people, and the railroad employees and the men in the industrial plants served form one big family, with a disposition to mutual help and consideration at all times. The injection of foreign negotiations and unfamiliar and unnecessary formalities would utterly destroy that "family" disposition and introduce a policy of "every one for himself," which would impair this service received by the public 50 per cent.

WISCONSIN & MICHIGAN RAILROAD CO.

7. The interposition of adjustment boards or any other kinds of outside participation would interfere greatly with the conduct of the transportation service on this line.

8. If this bill becomes a law it will entirely destroy the peace and harmony now existing between officers and employees on this line. We have no rules covering conditions, as employees willingly and cheerfully do everything they can to conduct transportation in the most efficient and economical manner without regard to classification. This bill would destroy the intercooperation of employees of all departments and tend to separate them into distinct classes. Our shop men are not unionized, neither are our trackmen, bridgemen, etc. The only unions represented on this road are the O. R. C., B. of R. T., B. of L. E., and B. of L. F. and E., and not all of our train and enginemen belong to any of these unions. We have always held conferences direct with our own employees and not with the union representatives. This bill would practically compel all of our employees to belong to unions and compel the company to deal with union representatives instead of directly with their own men. In my opinion the bill is most vicious and without consideration for the public or carriers.

WOODSTOCK RAILWAY

7. It would deprive us of the personal touch with our men which has given us a clean record to date.

8. It would compel our men to join the unions and be parties to the disputes on our big connection, the Boston & Maine, which has not a good record in labor matters. It would probably result in the curtailment of our service and would certainly not be in the public interest.

YORK UTILITIES CO.

7. Interfere.

8. In my opinion the bill would drive every railway employee into the unions, whether the men wanted to go or not. If we had to pay the wages paid on near-by unionized roads it would drive this company out of existence absolutely.

Mr. CAIN. I think, though, if the committee will indulge me, that it would be helpful to briefly refer to the totals which we find which we have taken from that tabulation.

Senator GOODING. That will be all right.

Mr. CAIN. Now, we have a tabulation which shows the number of lines, which covers over 50 lines which have no formal contracts, none of whose employees are members of any union, which are not now and have not been having any controversy with employees, and that have had no strikes to seriously interfere with service to the public. I want to file that. It gives the names and the number of employees of that group or class of railroads.

(The tabulation referred to is here printed in full, as follows:)

EXHIBIT OF MEMBERS OF AMERICAN SHORT LINE RAILROAD ASSOCIATION RELATIVE TO SENATE BILL 2646

(a) First group: Lines with not over 50 employees; which have no formal written contract; none of whose employees are members of any union; which are not now and have not been having any controversy with employees; and have had no strikes to seriously interfere with service to the public.

	Number of employees
Alabama Central R. R	24
Appalachian Ry	27
Apache Ry	25
Batesville Southwestern Ry	16
Beaver, Meade & Englewood R. R	10
Big Sandy & Cumberland R. R. Co	35
Brownstone & Middletown Ry	6
Buffalo, Union–Carolina R. R	29

	Number of employees
Cache Valley R. R	7
Caldwell Traction Co	7
Caro Northern R. R	16
Central Ry. of Arkansas	20
Central Wisconsin Ry	26
Charles City Western R. R	25
Cliffside R. R	12
Combs, Cass & Eastern R. R	43
Dansville & Mount Morris R. R	25
Dekalb & Western R. R	45
Dover & Southbound R. R	6
Due West Ry	7
East Jordan & Southern R. R	38
East Texas & Gulf R. R	8
Ettrick & Northern R. R	10
Fort Smith, Subiaco & Rock Island R. R	40
Greenville & Northern R. R	39
Hanover Ry	8
Hooppole, Yorktown & Tampico R. R	8
Kalamazoo, Lake Shore & Chicago R. R	8
Kanawha, Glen Jean & Eastern R. R	40
Minneapolis, Anoka & Cuyuna Range R. R	21
Missouri & Kansas R. R	50
Moshassuck Valley R. R	38
Morehead & North Fork R. R	30
Nevada County Narrow Gauge Ry	34
New Castle & Ohio River Ry	11
Pearl River Valley R. R	49
Pittsburgh & Susquehanna Ry	31
Ray & Gila Valley R. R	23
Roanoke Ry	18
Shearwood Ry	30
Shreveport, Houston & Gulf R. R	14
Sibley, Lake Bisteneau & Southern R. R	43
Smoky Mountain Ry. Co	35
South Manchester R. R	16
Tabor & Northern R. R	11
Talbottom R. R	8
Townsville R. R	15
Union Point & White Plains R. R	22
Ursina & North Fork R. R	10
Virginia Blue Ridge Ry	23

Mr. CAIN. Another classification is the roads which have no formal written contracts, but some of whose employees are members of unions, which are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public, giving the names and numbers of that group; that is, the names of the roads and number of employees and number of union members.

(The tabulation referred to is here printed in full, as follows:)

(b) Which have no formal written contracts, but some of whose employees are members of unions; which are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public.

Name	Number of employees	Union members
Arcade & Attica R. R	45	3
Ashley, Drew & Northern R. R	44	9
Atlantic Northern R. R	12	1
Augusta Northern R. R	29	1
Augusta R. R	10	2
Bloomsburg & Sullivan R. R	38	4
Greenbrier & Eastern R. R	34	4
Hillsboro & Northeastern R. R	14	1
Kosciusko & Southeastern R. R	21	1
La Crosse & Southeastern R. R	42	[1]
Lawndale Ry. & Industrial Co	19	1
Leavenworth & Topeka R. R	50	1
Marianna & Blountstown R. R	32	4
Marinette, Tomahawk & Western R. R	50	[2]
Marion Railway Corporation	12	1
Middletown & Unionville Ry	35	3
Midland Continental Ry	40	10
Minneapolis & Rainy River R. R	50	5
Motley County R. R	6	1
Nevada Copper Belt R. R	19	4
New York & Pennsylvania R. R	50	5
New Holland, Higginsport & Mount Vernon R. R	25	1
Pickens R. R	13	4
Prescott & Northwestern R. R	50	[2]
Rahway Valley R. R	25	2
Rockingham R. R	40	3
Salt Lake, Garfield & Western R. R	30	3
Tavares & Gulf R. R	50	6
Tennessee, Kentucky & Northern R. R	25	4
Texas Short Line R. R	20	5
Texas Southeastern Ry	30	5
Warren & Ouachita Valley Ry	30	3
Washington-Lincolnton Ry	42	2
Wildwood & Delaware Bay Shore Line Ry	33	2
Wilmington, Brunswick & Southern R. R	35	2
Winfield R. R	22	5
Woodstock Ry	24	3

[1] Train service.
[2] Unknown.

Mr. CAIN. Another class or group which do have written contracts with one or more classes of employees, but are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public, and there are six of that class of railroads. I think you asked that question a moment ago, how many had written contracts?

(The tabulation referred to is here printed in full as follows:)

(c) Which do have written contracts with one or more classes of employees; but are not now and have not been having any controversy with employees; and have had no strikes to seriously interfere with service to public.

Name	Number of employees	Agreements	Union members
Central West Virginia & Southern	33	With trainmen only	
Colorado & Southeastern R. R	19	Yes	5
Flint River & Northeastern R. R	31	With engineers	5
Greene County R. R	25	With trainmen	
Missouri Southern R. R	45	Maintenance of way employees.	22
St. John & Ophir R. R	11	Yes	4

Mr. CAIN. Then we have another group of lines of over 15 employees, but not over 100 employees, and this tabulation gives the number and the names of roads.

(The tabulation referred to is here printed in full as follows:)

Second group: Lines with over 50 but not over 100 employees. (A) Which have no formal written contracts; none of whose employees are members of any union; which are not now and have not been having any controversy with employees; and have had no strikes to interfere seriously with service to the public.

	Number of employees
Chattahoochee Valley	93
Elberton & Eastern	58
Gulf & Sabine River	100
Hoosac Tunnel & Wilmington	56
Intermountain Ry	63
Lancaster & Chester	55
Mason City & Clear Lake	60
Miami Mineral Belt	100
New Orleans & Lower Coast	75
Oneida & Western	75
Uintah Ry	87
Valley & Siletz	52
York Utilities	65

(B) Which have no written contract but some of whose employees are members of unions; which are not now and have not been having any controversy with employees; and have had no strikes to seriously interfere with service to the public.

Name	Number of employees	Number in unions
Aberdeen & Rockfish	64	1
Abilene & Southern	77	10
Butler County R. R	79	14
Coudersport & Port Alleghany	55	7
Eastern Kentucky	65	1
Electric Short Line	80	15
Fernwood, Columbia & Gulf	100	20
Garyville Northern	51	1
Minneapolis, Northfield & Southern	95	20
Lake Champlain & Moriah	70	3
Nacogdoches & Southeastern	80	(1)
New Jersey, Indiana & Illinois	82	(1)
Paris & Mt. Pleasant	100	(2)
Tennessee & North Carolina	60	2
Verde Tunnel & Smelter	70	28
Wisconsin & Michigan	61	(1)

[1] Train and enginemen.
[2] Unknown.

(C) Which have written contracts with one or more classes of employees, but are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public:

Campbells Creek, employees, 90; contracts; unions, 8.

Georgia, Ashburn, Sylvester & Camilla R. R., employees, 68; contracts with engineers; unions, 8.

Mr. CAIN. And the third group of over 100 employees which have no formal written contracts, none of whose employees are members of any union, which are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public, and this gives the names of the roads and the number of the employees. It also gives those which have no formal written contracts, but some of whose employees are members of unions, which are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public.

Then it shows the last class, those who do have formal contracts with one or more classes of employees, but who are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public.

(The tabulation referred to is here printed in full, as follows:)

THIRD GROUP—LINES WITH OVER 100 EMPLOYEES

(A) Which have no formal written contracts, none of whose employees are members of any union, which are not now and have not been having any controversy with employees, and have had no strike to seriously interfere with service to the public:

	Number of employees
Cambria & Indiana	196
Washington-Virginia	276
Washington & Old Dominion	258

(B) Which have no formal written contracts but some of whose employees are members of unions, which are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public:

Name of road	Number of employees	Union members
Bingham & Garfield	200	90 per cent.
Brooklyn Eastern District Terminal	284	Unknown.
Columbia, Newberry & Laurens	210	Majority.
Cumberland & Manchester	125	Very few.
East Tennessee & Western North Carolina	204	33.
Georgia Northern	121	15.
Kansas City, Kaw Valley & Western	131	25.
Kentucky & Tennessee	120	Unknown.
Mississippi Southern	188	1.
Nevada Northern	275	85.
New York Dock Ry	115	7.
Pacific Coast R. R	210	145.
Sacramento Northern	510	48.
Salt Lake & Utah	203	10.
Sugarland Ry	192	Majority train, engine, and shop men.
Waterloo, Cedar Falls & Northern	400	Unknown.
Western Alleghany	150	Do.
Savannah & Atlanta [1]	425	Majority of train, engine, and shop men.

[1] The shopmen on this road were ordered out in the shopmen's strike without any controversy or notice.

(C) Which do have formal contracts with one or more classes of employees, but are not now and have not been having any controversy with employees, and have had no strikes to seriously interfere with service to the public:

Name of road	Number of employees	Union members
Akron, Canton & Youngstown	608	(1)
Butte, Anaconda & Pacific	421	200
Charlotte Harbor & Northern	220	60
Des Moines & Central Iowa	188	50
Fonda, Johnstown & Gloversville	437	(2)
Georgia & Florida Ry	870	112
Live Oak, Perry & Gulf	112	8
Maryland & Pennsylvania	300	20
Northeast Oklahoma	188	6
Pacific Northwest Traction Co	194	
Southern New York Railway & Power Co	132	61

[1] Majority train-service men.
[2] A few.

Mr. CAIN. There are 93 roads that are in the first group of 50 or less, 31 of the second group which have over 50 to 100 employees, and there are 32 of the third group which have over 100 employees, and a total of 156, to be exact.

The number of employees in the first class is 2,496, the second group, 2,286, the third group, 8,175, and a total of 12,957.

The average number of employees in the first group is 26, the second group, 73; the third group, 255; total, average 83.

Number without formal written contracts, 88; second group, 29 third group, 21; total, 138.

Number with formal contracts, first group 6, second group 2, third group 11, total 19.

Number which have no union employees of the first group 50, second group 13, third group 3, total 66.

Number which have union employees, 38 out of the first group second group 16, third group 25, total 79.

Number of roads with recent or pending controversies, 1 of the first group, second none, third group 1, total 1.

Number with strikes which interrupted service, in the first group 1, second group none, third group 1, total 2.

(This statement in tabulated form is printed in full as follows:)

Recapitulation

	Number of employees			
	First group, 50 or less	Second group, 50 to 100	Third group, over 100	Total
Number of roads	93	31	32	156
Number of employees	2,496	2,286	8,175	12,957
Average number of employees	26	73	255	83
Number without formal written contracts	88	29	21	138
Number with formal written contracts	6	2	11	19
Number which have no union employees	50	13	3	66
Number which have union employees	38	16	25	79
Average percentage of union employees	(1)	(2)	(3)	
Number of roads with recent or pending controversies	1		1	[4] 1
Number with strikes which interrupted service	1		1	2

[1] 10 per cent.
[2] 20 per cent.
[3] Unknown.
[4] Demand pending.

Mr. CAIN. I next address myself to the effect which this bill, if it becomes a law, will have upon the public interests. The committee knows, as all men do, that when strikes or labor disturbances occur, the greatest sufferer is not the railway company, nor the employees that engage in them, but the public. The disturbance of industry as well as social conditions is tremendous and if we were able to figure out in dollars and cents the economic loss, it would be perhaps startling; but of course there is a loss of man days, as has been shown here to-day, in all of these strikes, and when that occurs that loss must be absorbed by the public.

In some way or other the loss which occurs, if there is a loss, or the increase in operating costs which occurs, must be passed on to the public.

I do not believe the public interest is at all protected in this bill. I call your attention to that fact because I think it may have been overlooked and if not overlooked the committee and Congress should make some amendments which will perhaps take care of the public interests.

There is, as a matter of course, in the machinery provided in this bill, a tribunal which is appointed from the public, but its powers are exceedingly limited. The board of mediation and conciliation is not given as much power as the Labor Board. All it can do is to endeavor to bring about a settlement of disputes or controversies, but it has not the appeal to public opinion which is provided for in the Labor Board or in the present law.

I can not see, and I have been unable to see—and I have had much to do with the Labor Board and with the law as it is to-day—I can not see that this is an improvement upon Title III of the transportation act of 1920 in any particular. Criticisms may be justly leveled at some things the board has done, and especially against some things that perhaps some member of the board may have said, but I do not know how many of you gentlemen are lawyers—you know that that is indulged in by not only the litigants but by the lawyers themselves, with regard to courts and with regard to all tribunals where we are disappointed in our expectations and where we think that justice has not been done.

This proposed bill might be changed, but I do not see how it can be changed without completely rewriting it so as to be as effective in its protection of the public interest as the present law.

Of course, the faults of this law as presented by the trunk line railroads apply equally to the short-line railroads. I am not going into that. But the short-line railroads and the public are interested. If you are insisting, or if the Congress in its wisdom sees fit to pass this law, there should be such amendments as will tend to bring about, or as we may reasonably expect will bring about, a settlement by the Board of Mediation and Conciliation, or, in other words, that that board will have some greater influence than the mere persuasive power of the individual members.

There is a provision here for agreed arbitration. I do not know whether you could make compulsory arbitration. I do not know whether if you could make compulsory arbitration—I mean in specific terms—whether it would be wise to do it. But I assume that the proponents of this bill, when they propose arbitration and when they said that they believed that the parties would arbitrate, I think they said that in good faith; but we all know that when men go into controversies every step that is taken in the progress of the settlement of those controversies which fails, adds to the difficulty of bringing the human minds together into such mutual concession as will bring about a settlement. Men become inflamed. Men become highly prejudiced against each other. They become stubborn. That is the human nature that is in all of us.

There ought to be, if we are going to have this bill written as a law, some amendments to it which would take care of the public interests at least. I suggest for the consideration of the committee this amendment, or these amendments, and the amendments that follow are germane to the first one I read.

Paragraph (a) of section (5), on page 17, which provides for the functions of a board of mediation and conciliation, after reading from line 23, declares that—

If such efforts—

Meaning the efforts of the Board of Mediation and Conciliation to bring about a settlement of disputes—

If such efforts to bring about an amicable adjustment through mediation and conciliation shall be unsuccessful the said board shall at once endeavor as its final required action to induce the parties to submit their controversy to arbitration in accordance with the provisions of this act.

We think that that provision, if it is going to be written into the law, should be amended by adding at the end thereof after the word "act" the following:

It is hereby declared to be unlawful and against the public interest for officers of any labor organization to call a strike or to participate directly or indirectly with any member or members in any plan or movement by which employees acting in concert shall quit the service of a carrier on account of a pending dispute; and it is hereby likewise declared to be unlawful for employees acting in concert or in pursuance of any plan or movement, either with or without order or direction of officer or officers of an organization of which such employees may be members, to quit the service of a carrier on account of such pending dispute unless and until an offer to submit such dispute to a board of arbitration herein provided shall be made in writing to the carrier, and such carrier shall have failed or refused within ten days after receipt of such offer to accept same in writing.

Now, if arbitration is proposed in good faith, as I assume it is, there should be no objection to requiring or prohibiting a strike until an offer in good faith has been made to the carrier and the carrier itself has failed for a limited time to agree to arbitrate.

Senator DILL. Would it not be well to make the contrary provision, also, that carriers should not be allowed to discharge men or to change conditions?

Mr. CAIN. I do not see that that would be objectionable, Senator.

Senator DILL. It seems to be well to make it apply that way.

Mr. CAIN. I think it might be possible to change it in that respect, and I would not object to it.

Senator DILL. In other words, combine them both.

Mr. CAIN. Yes; my thought is to protect the public by making it impossible that they should separate and bring about the economic loss and social disturbance until an honest effort had been made to arbitrate.

Now, if that is done, there are some other amendments germane to that which would have to be made here in order to harmonize other features of this bill with what I have read you.

On page 34, at the bottom of page 34, line 21, paragraph (8) of the proviso, I guess you would call it section (d), award, effect, and impeachment; paragraph (8) reads as follows:

Nothing in this act shall be construed to require an individual employee or subordinate official to render labor or service without his consent—

I think that is all right—

nor shall anything in this act be construed to make the quitting of his labor or service by any employee or subordinate official an illegal act.

Now, I say after the word "act," between the words "act" and "be," in line 21, let that read:

Nor shall anything in this act except as provided in paragraph (a) of section (5)—

Which I first read—

be construed to make the quitting of his labor or service by any employee or subordinate official an illegal act.

Further, amend paragraph (8) of the proviso by adding thereto after the word "consent," lines 1 and 2 at the top of page 35, the following, that says:

Nor shall any court of the United States or any State issue any process to compel the performance by any employee or subordinate official of such labor or service, without his consent.

Add to that:

Provided, That in all cases where such employee or subordinate official has participated in a conference between an adjustment board or a board of mediation and conciliation through a representative acting for such employee or subordinate official, either through direct appointment or as officer of an organization of which such employee or subordinate official is a member, the consent of such representative shall be considered as the consent of such employee or subordinate official.

Unless the bill be amended in that way, then, of course, you can not bind the individual at all, and if we are going to have arbitration and it is to be binding, if they have been represented in the arbitration by officials or by representatives chosen, then there should be nothing in the bill that would be left for possible interpretation which would permit the individual to disregard the award.

Without taking the time of the committee, I had intended to discuss the experience of the short-line railroads before the Railroad Labor Board, but I see the committee is pressed for time. I want to file with the committee a report from Mr. Shirley Seward, secretary of the labor department of the short-line railroads at Chicago, showing the number of cases docketed and decided by the board, and giving the names—that is, short-line railroads—and giving the names of these railroads and the number of cases which they have decided.

Senator DILL. Have the employees of the railroads accepted the rulings of the Labor Board in all cases?

Mr. CAIN. Yes, sir.

The CHAIRMAN. Is your association generally satisfied with the functioning of the Labor Board?

Mr. CAIN. Yes; we are. I think a good suggestion was made here, Senator Couzens, by the trunk lines. In my own experience before the Labor Board I have found this situation exists: There are three representatives of the carriers and three of labor organizations, and, of course, they are partisan. You can not escape it. No man selected as they are selected can get away from the fact that he is put there as a representative of these respective organizations. Before the board where cases are pending they are advocates. When they can not agree or dissension occurs the disposition of these advocates is to reach the public judgment in some possible way, and I think in some cases decisions have been influenced on account of the partisan and very persistent efforts of these members who have a vote with them and which can control the decision.

If the public members of the board are in the majority and you have these advocates, that is proper. It would be very helpful, I think, in the improvement of the present law. But outside of that, and outside of the fact that I have always felt that there should be some connection between the board and the Interstate Commerce Commission, some relationship established of some sort, because of the fact that the Interstate Commerce Commission deals with rates, and rates are necessarily affected by the cost of operation through wages, there should be some sort of interrelation between those two bodies, but I do not think that is so important at this time as it is necessary to make an amendment.

(The report referred to is here printed in full, as follows:)

FORMAL COMPLAINTS BEFORE UNITED STATES RAILROAD LABOR BOARD INVOLVING SHORT LINE RAILROADS SINCE INCEPTION OF BOARD

AMERICAN SHORT-LINE RAILROAD ASSOCIATION,
Chicago, March 25, 1924.

Since the organization of the United States Railroad Labor Board in May, 1920, that tribunal has received and formally docketed 205 cases involving short-line railroads and their employees. Nearly all of these complaints have been initiated by the national railroad labor organization chiefs. A small number, probably not over 12, have been initiated by the carriers.

Of these 205 docketed cases, 188 have been disposed of by the Labor Board, by formal decisions. The remaining 17 are pending. A list of these cases, by railroads, showing the decision numbers for disposed cases, and the docket numbers on pending cases, is shown hereunder.

The total number of cases received and docketed by the United States Railroad Labor Board up to March 1, 1924, for all railroads and all classes of employees, was 12,382. Thus, these 205 docketed cases covering short-line railroads, represent but 1.66 per cent of the total number handled.

Of these 205 cases, 79 are included in decisions Nos. 33 and 108, both disposing of the requests of the labor unions for wages demanded of the trunk lines antecedent to decision No. 2; decision 33 dismissing the complaints against 12 electric lines for lack of jurisdiction; and decision 108 denying the request of complainants as to the 67 steam lines heard. By decision 1915, the Labor Board disposed of complaints of the union chiefs against 17 short lines, account alleged wage reductions.

Thus if the 96 short lines covered in the blanket decisions above referred to be subtracted, there remains but 109 real individual short-line cases which have come before the Labor Board.

Immediately follows alphabetical list of these 205 short-line cases. Decision numbers follow name of road on same line; docket numbers of pending cases are shown under the name of each road:

Abilene & Southern 2, 119
Akron, Canton & Youngstown 108
Alabama, Tennessee & Northern 1915
Apalachicola Northern 108, 2050
Arizona & New Mexico 108
Atlanta & St. Andrews Bay 108, 1915
Blue Ridge Railway 108
Boyne City, Gaylord & Alpena 108, 1915
Brooklyn Eastern District Terminal 108, 150, 1987
Pending; docket 2718.
Butler County 109, 224, 1915
Pending; docket 1561.
Butte, Anaconda & Pacific 108, 1915, 1395
Canton Railroad 1915
Carolina & Northwestern 108
Central New York Southern 108
Charlotte Harbor & Northern 108
Charlotte, Monroe & Columbia 108
Chicago & Illinois Midland 108
Chicago, Lake Shore & South Bend 33

Chicago, West Pullman & Southern 1554
Copper Range 108, 1690
Copper River & Northwestern 1915
Cornwall Railroad 1915
Danville & Western 108
Dayton, Toledo & Chicago 108
Denver & Interurban 33
De Queen & Eastern 1915
Detroit & Mackinac 147, 214, 258
Detroit & Toledo Shore Line 422
Detroit, Bay City & Western 108, 1921
Duluth & Northern Minnesota 108
East & West Coast 108, 147, 1686
Eastland, Wichita Falls & Gulf 108
Pending; docket 1286.
Eastern Tennessee & Western North Carolina 108
Electric Short Line 147, 229
Erie & Michigan Railway & Navigation Co 108
Escanaba & Lake Superior 108
Florida Central & Gulf 108
Fort Dodge, Des Moines & Southern 33
Fort Smith & Western 108
Fort Smith, Subiaco & Rock Island 108
Gainesville Midland 108
Georgia & Florida 108, 1915
Pending; docket MC52.352.
Georgia, Florida & Alabama 2, 119, 143, 1028, 1267, 1450
Greenwich & Johnsonville 108
Gulf, Florida & Alabama 108
Gulf, Texas & Western 1915
Hawkinsville & Florida Southern 108
High Point, Randleman, Ashboro & Southern 108
Houston & Brazos Valley 108
Hudson & Manhattan 33
Huntington & Broad Top Mountain 2, 119, 2047
Illinois Terminal 2, 119, 1050, 1051, 1052, 1053, 1054, 1003, 1056, 1055, 269, 2190
Pending; docket 1387–8.
Indian Creek Valley 108
Inland Empire 33
Interstate Railway 32, 108, 886, 2167
Pending; dockets 1287, 1870.
Interurban Railway 33
Kentucky & Tennessee 147
Lackawanna & Wyoming Valley 33
Lake Erie & Fort Wayne 1870
Lake Erie, Franklin & Clarion 108
Live Oak, Perry & Gulf 108
Louisiana & Pacific 108, 2064
Louisiana Railway & Navigation Co 108, 2203
Pending; dockets 2755, 3323, 3392.
Macon & Birmingham 108
Macon, Dublin & Savannah 108, 147, 1684, 2116
Manistee & North Eastern 108
Manufacturers Railway 2, 119, 147
Marion & Eastern 108
Pending; docket 3175.
Memphis, Dallas & Gulf 108
Middletown & Unionville 108
Midland Terminal 108
Minnesota, Dakota & Western 108, 1443
Mississippi Central 1540
Mississippi River & Bonne Terre 108, 1410
Missouri & North Arkansas 2, 90, 724
Missouri Southern 1981
Montour R. R 1568
Munising, Marquette & Southeastern 147

Lake Superior & Ishpeming	147
Narragansett Pier	108
Nevada Northern	2, 119, 1302, 1688
New Orleans Public Belt	2124
New York, Weschester & Boston	33
Northampton & Bath	1915
Northeast Oklahoma	108
Northwestern Railroad of South Carolina	1915
Pacific Coast Railroad	108
Pacific Electric	33
Patapsco & Back Rivers	1915
Philadelphia, Bethlehem & Northeastern	108, 1915
Piedmont & Northern	33
Quannah, Acme & Pacific	1915, 1810
Raleigh & Clarleston	108, 147, 1685
St. Louis & O'Fallon	2, 119, 147
St. Louis & Hannibal	108
St. Louis, Troy & Eastern	511, 1444
Sandy River & Gangeley Lakes	108
San Diego & Arizona	2, 119, 147, 228, 1562, 1830, 1922
South Georgia	1915
Spokane International	108
Spokane & Eastern	33
Sumpter Valley	108
Susquehanna & New York	108
Pending; dockets 690, 1284.	
Tampa & Gulf Coast	108, 147
Tampa Northern	108, 147, 1683
Tennessee, Alabama & Northern	108, 1915, 1682
Texas City Terminal	108
Texas, Oklahoma & Eastern	1915
Tremont & Gulf	
Pending; docket 1302.	
Tallulah Falls	108
Virginia & Truckee	108
Wabash, Chester & Western	108, 1357
Pending; docket 2247.	
Washington & Old Dominion	33
Wichita Falls & Southern	
Pending; docket 331.	
Wood River Branch	108
Ulster & Delaware	119
Winston-Salem Southbound	119
Yadkin Railroad	108

SHIRLEY SEWARD.

Mr. CAIN. Now then, another report from Mr. Seward gives us the number of strikes on short line railroads, or rather the absence of strikes and I will file that with the committee.

(The report referred to is here printed in full, as follows:)

THE AMERICAN SHORT-LINE RAILROAD ASSOCIATION,
Chicago, March 25, 1924.

STRIKES ON SHORT-LINE RAILROADS

The United States Railroad Labor Board have no record of strikes on short-line railroads which have been brought to the attention of the board as such.

The labor department of the American Short-Line Railroad Association knows of two specific instances in which strikes occurred on the short-line railroads, namely, the Wabash, Chester & Western Railroad and the New Jersey, Indiana & Illinois Railroad; but these strikes, if they may really be called such, were due purely to the activities of two or three local agitators. Neither one lasted over a few hours, in any case, not long enough to cripple the operation of either railroad in any way. Each one of these so-called strikes was limited entirely to a specific class of men. On the Wabash, Chester & Western, the section men; on the New Jersey, Indiana & Illinois Railroad, the conductors and brakemen.

At the opening of the strike called by the Federated Shop Crafts, effective July 1, 1922, the shop employees of several short-line railroads did suspend work for a few days, due to the intimidation of the Federated Shop Crafts officers located in nearby large shops of certain trunk-line railroads; thus if a few shop employees of a short line were located within a few miles of a great shop of some trunk line employing large numbers of shopmen, the officers of the latter generally endeavored to make things rather uncomfortable for the short-line shopmen if they did not suspend work.

At the time of the strike on the trunk lines, the secretary of the labor department of the American Short-Line Railroad Association at Chicago, took up with Mr. B. M. Jewel, president Federated Shop Crafts, Chicago, and his associates, the question of his directing the members of his organization on the short lines to return to work, for the reason that the short lines were not parties to Decision No. 1036 of the Railroad Labor Board, which authorizes decreases in the wages of the shopmen on the trunk lines, parties thereto.

This representative of the American Short-Line Railroad Association was then advised verbally at that time, by the general secretary of the Federated Shop Crafts, Chicago, that the strike had to be 100 per cent in order to be effective, and that the Federated Shop Crafts would not call off the strike as to any particular road or roads, regardless of their local status or lack of connection with the issues in the strike, and irrespective of the fact that such short lines had not reduced wages and did not intend to do so; that the good must suffer with the bad, and that the Federated Shop Crafts had no intention of making any concession to any railroad, short line or otherwuse.

SHIRLEY SEWARD.

Mr. CAIN. Mr. Robinson calls my attention to the fact that I stated that they were all satisfied, in answer to the chairman's question. I do recall that there was a small road that did disagree—it is not a member of our organization—but it did disagree to the order of the Railroad Labor Board to put back a section foreman who had been discharged. That was the Butler County Railroad. I do not recall any other case where they have not gone on and acted in accordance with the orders of the board.

The CHAIRMAN. We have time for two or three more witnesses before lunch.

Mr. ROBINSON. Mr. Hargrett, of Florida.

STATEMENT OF W. T. HARGRETT, PRESIDENT AND GENERAL MANAGER, LIVE OAK, PERRY & GULF RAILROAD

Mr. HARGRETT. I am president and general manager of the Live Oak, Perry & Gulf Railroad, and receiver for the old Ocilla Railroad.

Gentlemen, Mr. Cain has covered the points in regard to this bill. I do not want especially to comment on anything he has said. I would just like to explain in a short way our line, the two lines I represent, the nature of the business and working conditions.

The Live Oak, Perry & Gulf, a little line 88 miles long, was built in 1904, and in 1905 it started out as a lumber proposition. It soon turned into a railroad. It served originally a lumber country running along in middle west Florida, known as the Flat Woods in the swampy section of that country. Our business is practically all forest products matter. We have several big mills located along the line of the road. At least 75 per cent of our business is forest products, lumber, and crossties and stuff of that kind.

Our line, from the time it was built up until about 8 years ago, was a losing proposition, and the owners had to go down every month in their pockets to borrow money and put up their personal notes to keep the road going, until about 8 years ago the sawmill began to

develop that section and we began to make a little money, and up until two years ago it took all we could make to pay back these notes and pay back debts, and we have been paying back that money and trying to improve a little in our equipment, but all the while up to now, January 1, the bondholders, the owners of that property have never received a cent dividends until January of this year, when we declared a dividend of 4 per cent.

Our lumber output is right at the peak of its production. We are on top of the hill and going down grade, and two years from now—the mills have enough lumber to keep them going about two years, and then they shut down. We have one particular mill that will require about 60 carloads a day, another about 3 or 4, and another 16, and one 2½ or 3 cars. Those mills that I mentioned have enough to last them about two years, the two largest ones, about two years. Then we have some other mills there that will run along about six or eight years, and in the final windup of it all the timber production will be over in about 10 years.

So that we know that in about two years our dividends are going to be thin. There is nothing there outside of the lumber industry to support the road. After that is gone that country reverts back to the bear, the turkey and the deer, just like the Indians left it.

Senator GOODING. That land is not fertile enough to grow crops?

Mr. HARGRETT. There is about 20 or 30 miles that run down on the lower end of the road out of Live Oak that is a sandy country, but it is occupied by farmers who have the long-horned cows and a few puny pigs and a few scrub mules. They do not raise anything, outside of little watermelons; the watermelons probably run about 150 cars a year.

Consequently our business is all forest products and inbound products to support these mills. We run four trains. We have five engineers and five conductors. We run them on a short route back and forth. These people stay home every night. Consequently their living expenses are low.

We have a contract with the engineers and the conductors only. The rest of our employees are not organized. We have no contracts with anybody except them, which has been running about three years now.

Senator GOODING. Does the general run of them own their own homes?

Mr. HARGRETT. Yes, sir; generally own their own homes and eat their breakfast and eat supper at home.

This bill, as I stated, would increase our operating expenses to where it would practically destroy the chances that we have now under the most favorable conditions. Certainly two years from now we would be in a bad shape, and the owners would have to go down in their pockets to keep the thing going. That is so much for the Live Oak, Perry & Gulf.

Two years ago, May 1, 1922, I was appointed receiver for the Ocilla Railroad, a railroad over in Georgia, a road 7 miles long. It was likewise a lumber proposition. They cut out all the lumber, and it is a pretty good farming country now but the boll weevil ate up the cotton. Then the motor truck and the automobile came along and took practically all of the passenger business they had away from them. It has been in the hands of the receiver about six or

eight years. It has been losing money all the time. So the bondholders were figuring on doing something with it, tear it up and dispose of it. They asked for a change in receivers, and I was one of the two receivers appointed. We have managed to keep it going, and by some method available and serving the public.

We ran it that way until January 1 of this year, and have been running just down and down with no chance to keep it up, and then I went before the court when the bondholders decided that something had to be done, and I said, "Gentlemen, this has gone as far as it can."

In December, 1920, on account of Hawkinsville & Florida Southern Railway having gone out of business for the same reason I mentioned with these others, starving to death, we got an order from the court to abandon operation.

Since September, 1922, we just operated 40 miles south of Fitzgerald. When the gross receipts got down to $4,500 a month we cut our operating expenses just as low as they possibly could be cut. Consequently, why, we went before the court, and the judge agreed with us that it would have to be taken up, and I was appointed master commissioner to cry it off, and I sold it, and I have in my hand here power of attorney to handle it.

The CHAIRMAN. What has that got to do with this?

Mr. HARGRETT. I thought probably you would like to have it to show the conditions.

This last December the Gainesville & Southeastern Railroad in northern Georgia went into the hands of receivers. I believe in 1920 they lost $53,000. The bondholders decided they would try to dispose of it and get their money out of it. They had it advertised to be sold on January 1, in the hopes of disposing of it. They, however, asked me if I would go up and make an investigation of this property to see if there was any method to keep it going. I did so. I made a report of it. They called off the sale, and they are trying to keep it going.

The point that I am making is that they could not stand the increase in operating expenses.

Senator GOODING. Which you believe this bill would bring about?

Mr. HARGRETT. Yes; which I believe this bill would bring about. They run through one of the best sections in Georgia. They serve some good towns. There is one town, one place, Jefferson, a town of about 2,500 or 3,000, where they have a cotton mill. If this bill passes and is put into effect there, that cotton mill will be left high and dry, with a loss of thousands of dollars.

I could give you the names of half a dozen lines that have been torn up in the last few months.

Senator GOODING. I do not think the committee, Mr. Chairman, can listen to all this hard-luck story from all 10 witnesses. We would not get through here.

Senator DILL. Certainly, if this bill is to be passed, nobody, and I think Congress, would favor doing anything to put a burden on the short-line roads.

Mr. HARGRETT. I tried to give you our troubles down there.

Senator DILL. That is true everywhere.

Mr. ROBINSON. Responding to that suggestion, I want to say that these roads are in such desperate shape, I certainly want to be assured

in some way that they are not going to be included and hurt, or they want the privilege of presenting the facts and making all the efforts they can to protect themselves.

Senator GOODING. I think the committee understands very fully the condition of practically all the short-line railroads, the truck lines, and automobile lines. It has been so well stated that there is not any question about that. I have a personal knowledge about those things myself, and no doubt the other members of the committee have, and I do not think we need to take your time in dealing with all those matters, which will be considered when this bill is up for consideration.

Mr. ROBINSON. If the chairman of the committee has the knowledge——

Senator GOODING. Some of the members have had a greater opportunity to observe those things than I have, and I am sure Mr. Dill has a knowledge of it in his State. I think it would be well to be brief with these witnesses, and I would not take up more than five minutes of the time.

Senator DILL. Let them file their statements.

Mr. ROBINSON. We have selected lines of the different types, and I will ask Mr. Purvis, of the Georgia & Florida, to make a statement, as his road is over 400 miles. He will represent roads of that type.

Senator GOODING. Of course, Mr. Robinson, you see that the Senators have other committees, you know, that they must give attention to, and other duties that they have got to attend to, and they have got to be as brief as they can. Of course, they want all to be given a fair hearing.

Mr. ROBINSON. Yes, we appreciate that, and if we can see that it is not necessary and that the interests we represent are going to be protected we certainly have no desire to unnecessarily consume the time of the committee.

STATEMENT OF H. W. PURVIS, GENERAL MANAGER OF THE GEORGIA & FLORIDA RAILWAY AND PRESIDENT OF THE STATESBORO NORTHERN RAILWAY, AUGUSTA, GA.

The CHAIRMAN. The witness will give his name to the reporter.

Mr. PURVIS. H. W. Purvis, general manager of the Georgia & Florida Railway, and president of the Statesboro Northern Railway.

The CHAIRMAN. Where are you located?

Mr. PURVIS. Augusta, Ga. The Statesboro Northern Railway has a mileage of 40 miles. The Georgia & Florida Railway has 404 miles. I will read a little statement which is short. It does not include this. I will try to hurry through so that I will not detain the committee.

The Georgia & Florida Railway is an independent line and has no way of financing itself except by its earning capacity. In its history it has paid to employes in salaries $9,099,522; in taxes $816,492.20. It has paid no interest on its bonded indebtedness since 1913, although there is approximately nine millions of dollars invested in the property. It operates through a new territory now developing. We earned last year a gross of $4,500 per mile per annum. It has been in the hands of the receivers since 1915. It was put up to be sold to be junked three years ago. Conservative real estate men estimate the depreciation in real estate values along its line at thirty millions of dollars.

Besides leaving the people along its line without transportation facilities, to say nothing at all of the approximately 875 employees who would be out of work. We are trying to keep this railroad alive, first for the benefit of the public it serves, secondly for the benefit of the approximately 875 employees and their families.

Quite a number of these employees can not go anywhere else and get employment for the reason that some are too old; others are not physically qualified for service on the larger systems.

I might say that we have organizations on our railroad among enginemen, trainmen, conductors and firemen and hostlers and operators and agents.

Third, we hope that we may gradually build up this territory and make it strong financially and thereby better serve the public and better compensate the employees, and perhaps give its owners some little return on its investment on which they have had no return for more than 11 years.

But I do not believe that we can accomplish this under the proposed law. My reason for this belief is that twice in the history of our railroad we have been forced to ask our officers and employees to join us in a wage reduction to keep the property alive, and they have done so. If this emergency should again arise, I do not believe that they would feel free to again have a law of this kind in existence, and before we could get our case handled or heard under this law we would probably be out of existence.

We do not feel that the short lines—in fact, the present law, as we see it, meets the situation, and we do not feel that the present law at this time should be changed. If this law becomes effective in its present form, it will force us under the standard wages, which we can not pay and live.

Our employees realize that, because they have gone along with us working to try and help us build up that property.

I make this statement for the reason that it has only been a few months since one of our organizations presented a petition for increase in pay. They had in that petition rates of pay that are paid by railroads like the New York Central or the Pennsylvania. Our men did not press it because they knew that we could not pay it and live, and I gave them my answer, and of course that is the last I have heard of it, because they understand that as we build up the property and improve we are going to help them along with the success of the property.

The demand was sent to the organization from the national headquarters with the instruction that it be presented to us and get our answer, without any question as to whether or not it might be modified by them, and of course we had to reject it because we could not accept it.

That is the situation of our road. That is the situation with both the lines which I represent.

I just want to say one thing in connection with the short line, the Gainesboro Northern, with 40 miles. That was a part of the old Middleboro line that went out of business. This is a good agricultural section of the country, on the lower one-third of the line, and the agricultural interests seem to be coming back in our section. The people along that line, in order that they might not be left without transportation facilities, put up one third of the purchase

price of that railroad and I induced our bondholders to put up the other two thirds in order to keep that railroad alive for the benefit of those people.

Senator GOODING. What crops do they grow along there where you say it is a good agricultural section?

Mr. PURVIS. That 40 miles they grow cotton, tobacco, watermelons, cantaloupes; part of the 40 miles is through a good farming section. Also the south end of our lines is in very good agricultural territory, besides, of course, lumber interests and things of that kind on it, and it is improving. If we can go along with our employees, we think we can work it out. If we have to apply this so-called standard of wages that has been submitted to us, we can not do it.

(Whereupon, at 1 o'clock p. m., a recess was taken until 2 o'clock p. m. of the same day.)

AFTER RECESS

The subcommittee reassembled at the conclusion of the recess at 2 o'clock p. m.

The CHAIRMAN. Proceed, Mr. Robinson.

STATEMENT OF BIRD M. ROBINSON—Resumed

Mr. ROBINSON. Mr. Chairman, in deference to the point of view expressed by the committee, I am going to submit, if I may, a list of the witnesses we have here, and then we will discuss the mode of procedure to be followed.

We have present as witnesses:

Mr. Charles H. Sommer, vice president Quarrah, Acme & Pacific Railroad, Texas, and Fort Smith, Subiaco & Rock Island, Arkansas.

Mr. William G. Powell, general manager, representing the receiver of the Dansville & Mount Morris, New York.

Mr. J. H. Persons, president and general manager, Talbatton Railroad, Georgia.

Col. Earle D. Luce, receiver, Electric Short Line Railroad, Minnesota. That is a road that uses steam power but has "electricity" in the name.

Mr. Sturgis G. Bates, receiver Eastern Kentucky, Kentucky.

Mr. John A. Streyer, southeastern representative, American Short Line Railroad Association.

Mr. Shirley Seward, midwest representative, American Short Line Railroad Association.

Judge William S. Bennett, general counsel, Mississippi Southern Railroad, Mississippi.

We should be very glad to offer these gentlemen as witnesses if the committee cares to hear them. Their testimony will confirm, very largely, the testimony heretofore presented, but it will represent types of roads located in different sections in the country. If the committee does not care to hear them, we would be glad to have them listed in the record as witnesses offered.

The CHAIRMAN. I understand they are all laboring under the same conditions as the witnesses who testified this morning.

Mr. ROBINSON. Practically.

The CHAIRMAN. If you want to bring on Mr. Seward, we will hear him.

Mr. ROBINSON. I would like first to present a statement.

The CHAIRMAN. Very well, we will hear you.

Mr. ROBINSON. At Mr. Cain's suggestion, I am going to ask permission to correct some statements made in response to questions by the chairman or Senator Dill this morning. In response to the question as to whether there had been any violations of the Labor Board orders, he responded, "Practically so" and I am going to give the committee the actual information, not in detail, but the results.

Of the 205 cases that have been filed before the Labor Board, affecting the Short Line Railroads under Decision No. 108 the board disposed of 67. These cases were ordered before the Labor Board by the grand officers of the Brotherhood and we demonstrated to the board that there had been no controversy nor conference with the employees of the respective lines, therefore there could be no appeal to the board; that the so-called appeal to the board was an attempt of the grand officers of certain organizations to carry out the plans described in the orders read by Mr. Cain this morning. The board recognized the facts and dismissed 67 such cases in decision No. 108.

Twelve cases were dismissed under decision No. 333 because they were electric lines and the board determined such lines did not come within its jurisdiction. The employees of 17 short lines that had reduced wages, contested such reduction before the Labor Board, and in its decision No. 1915, the board sustained the action of the roads and dismissed the appeal.

That disposes of 96 of the 205 cases.

Then there were 109 cases brought by individual employees. That is the record of the short line cases.

Now, as to violations: There have been two violations by members of the American Short Line Railroad Association, the Nevada Northern Railroad has directly defied, against our advice, an order of the Labor Board, and that road has since resigned from the association and is not now a member. The Butler County Railroad is a member of the association, but Mr. Cain overlooked it for the reason that the association did not represent that road in the presentation of its case to the Labor Board. Its manager came, dealt with it himself, and we had nothing to do with it.

There have been two other violations, one by the Illinois Terminal Railroad, of which we know practically nothing. It is not a member. The other is the Interstate Railroad in Virginia. That road has violated orders of the board. We volunteered our service to try and aid and get them before the board. We recommended that they recognize the board and we at one time went so far as to get the board to postpone action on a case to give them an opportunity to come before it.

The attitude of our association has been that the Labor Board was a governmental body; that it was the duty of all parties in interest to respond, to go before the board when required, and to obey, unless there was a question of jurisdiction or unless the condition arose such as in the cases heretofore described. In those cases we knew the facts and demonstrated to the board that the necessary conditions precedent to appeal had not been complied with, and we told

the board at that time that we would advise our members to go to court to test the question if the board saw fit to enter any orders on those appeals which were not in accordance with the law. On the other hand, we believe our members ought to obey the board and we have so advised in all instances.

My attention has been called to my use of the word "violations." I should say "have disregarded and did not obey"—I think that is the better term.

That, I think, gives the committee the essential features of the labor situation so far as we are concerned. That will be all we care to offer on that subject.

The CHAIRMAN. You do not believe Mr. Seward has anything to say?

Mr. ROBINSON. He furnished me the information I have just given. I had it prepared so I could lay it before the committee.

Mr. CAIN. I filed the report he made with respect to this to us this morning as a part of my statement, and it is in the record.

The CHAIRMAN. I understand there is no one else who desires to be heard?

Mr. ROBINSON. I will finish by making a short statement. I think I can confine myself to 10 minutes.

We find it necessary to oppose this bill for two or three fundamental reasons.

We do not believe that the law should require the short and weak railroads to make and maintain contracts with their employees.

The conditions are such that there must be full and complete liberty of action in dealings between the employees and the roads without any outside interference. If there is any legal provision or requirement that the roads shall give 30 days' notice of any change of rules or working condition or of amount of pay, it will frequently be an almost insurmountable obstacle to prompt and efficient service. Conditions change daily and there must be full and complete freedom of action as between the two interested parties.

The record presented here this morning demonstrates that there is seldom any controversy or disagreement between the employees and the kind of roads we represent. Therefore, we believe these two objections are fundamental and are quite serious as far as the roads are concerned.

It has been said in the testimony of the proponents of this bill that the short lines pay the same for locomotives and cars and rails as is paid by the main lines. That is incorrect. The great majority of this class of roads do not buy new equipment or new rails. They buy second-hand engines and equipment and rail from the main lines, and the great majority of them are made up of material and equipment of that character. They likewise employ and use a class of employees not suited for or capable of like work on main lines.

If this bill should be passed and have the effect that we confidently believe it would, I feel justified in saying that it will cause the scrapping, within two or three years, of a minimum of 7,500 miles of short-line railroads that are now being operated and rendering valuable service to their patrons without any adequate return or with no return. In other words, they are rendering a service below cost.

The short-line railroads originate and deliver to the main-line roads a large part of the raw material consumed in the general commerce

of the country, and if 7,500 miles of such roads, or any considerable part thereof is destroyed, it will result, not only in great injury to the people located on or having property and business so located, but to people and business in that part of the country where the traffic such roads produce is consumed. The public at large is materially interested in having each and all of such roads continued.

We object to and believe that there is no justification for the inclusion in a bill of this character of the employees of associations and bureaus, and organizations of that character, which are used in connection with the transportation business, the employees of which are not engaged in transportation in so far as it affects the general public.

Take my association, for example. We have some 20 to 30 employees. If they should strike, they would not affect the transportation service of the country to any extent. Our relations with our employees are harmonious. There is no occasion to place upon an organization of this kind, nor other bureaus or such agencies an obligation to make and maintain contracts and prevent the changing of any rule around the office, without giving the employees 30 days' notice that we will change a rule; that we will assign a typewriter to this person or to that person, or that we will transfer one person from the file room to some other room. That would be a very objectionable restriction and one that would not result in benefit to the public; would not affect the transportation interests of the public, and would not benefit such employees. The employees are satisfied, and if they are not they have the opportunity of getting or attempting to get their wages increased. They are not people of technical training and knowledge of transportation. They can be used in any other business to which they wish to apply themselves, and if they do not accept the wages paid them by association bureaus, etc., they have the option of leaving such service and devoting their services to some other business.

In the testimony presented by the proponents of the bill attention was called to the fact that the Labor Board, in some of its decisions, had taken into consideration the ability of the carrier to pay the employees, and, as I understood the testimony, they thought that was an element that ought not be given consideration. We feel that the inability to pay is one of the governing factors as to what can be done in meeting the expenses of these carriers. If they do not have the money with which to buy a locomotive, they have to repair the old one. If they do not have money to buy new cars, or rails, they have to use the old ones; they are governed absolutely in that respect by their financial ability to pay. There is no reason, so far as we can see, why some employees must be paid a so-called "standard wage" which has been fixed to be paid parties of a different type and different ability and surrounded by different circumstances. We know that the kind of employees, their experience and ability, the volume and character of the work, and the surrounding conditions must be taken into consideration when attempting to enact laws or regulations for employees, and it is fundamental, as we see it, to take into consideration the ability or inability of the carrier to pay.

The CHAIRMAN. Are there any questions?

Senator GOODING. There are none that occur to me.

The CHAIRMAN. I think at this juncture I ought to put into the record documents handed to me for the record in lieu of appearance before the board.

One is addressed to the chairman of the Committee on Interstate and Foreign Commerce, and is from the representatives of the seven shopcraft employees and reads as follows:

MARCH 28, 1924.

DEAR SIR:

Be it resolved, That we, the elected representatives of the seven shopcraft employees—that is, machinists, boiler makers, blacksmiths, sheet-metal workers, carmen, electricians, moulders, and their helpers and apprentices, of the eastern, central, and Altoona works general committee of the Pennsylvania Railroad system, representing approximately 55,000 employees, have had our attention called to bill No. S. 2646, "To provide for the expeditious and prompt settlement, mediation, conciliation, and arbitration of disputes between carriers and their employees and subordinate officials, and for other purposes."

As this bill makes no provision for our present arrangement of employee representation, and feeling the interest of the employees we represent should have been given consideration at the time of its hearing, we feel that sufficient time has not been granted to us to provide for their welfare, and as this class of employees have not had an opportunity through their elected representatives to present their views on bill No. S. 2646, we therefore, knowing the attitude of the employees, we represent is in harmony with our present arrangement of employees' representation, hereby most respectfully request you on behalf of the employees, in fairness to them, that the said employees' representatives be given a hearing.

We regret very much that the northwest and southwest general committees were unable to be in Washington, D. C., this date, as we are of the opinion that their representatives would also approve of this resolution.

Yours respectfully,

EMANUEL PETERMAN,
General Chairman Altoona Works.
T. H. DAVIS,
General Chairman Eastern Region Shopcrafts.
W. J. HILTON,
General Chairman Central Region.

Another one is addressed to Hon. Senator Smith, chairman subcommittee Committee on Interstate Commerce, United States Senate, from "employees representing approximately 30,230 employees of the Pennsylvania Railroad system."

This letter reads as follows:

WASHINGTON, D. C., *March 28, 1924.*

We, the undersigned employees, representing approximately 30,230 employees of the Pennsylvania Railroad system embodying clerical and station forces, do hereby protest the enactment of the Howell bill (S. 2646) now before the Subcommittee of the Committee on Interstate Commerce, United States Senate. If this bill is passed it precludes the above employees from the representation they desire, namely, the employee representation plan now in effect on the Pennsylvania Railroad system and which has been in successful operation since August 1, 1921.

Our organization is in no way connected with any organization which helped draft the Howell bill.

C. C. English, chairman clerical forces, eastern region; H. C. Clark, chairman clerical forces, central region; W. J. Fetz, chairman clerical forces, southwestern region; E. H. Malick, chairman miscellaneous forces, eastern region; Chas. W. Bate, chairman miscellaneous forces, central region; H. L. Mansfield, chairman miscellaneous forces, southwestern region; F. W. Schneeberger, chairman miscellaneous forces, northwestern region.

I have a telegram from New Orleans addressed to Hon. Ellison D. Smith, chairman of the Senate Committee on Interstate Commerce, Washington, D. C.

This telegram reads as follows:

MARCH 29, 1924—2.48 A. M.

Hon. ELLISON D. SMITH,
Chairman Senate Committee on Interstate Commerce,
Washington, D. C.:

We, the yardmasters of the Southern Pacific lines in Louisiana and Texas, desire to protest the passing of Senate bill 2646, which will have the effect of destroying all local organizations of employees and to place employees of the railroads of the country both organized and unorganized at the mercy of the so-called national organization. The bill does not provide for a court of appeal with authority to render a decision. The proposed bill further denies to any class or craft of employees the right to negotiate and enter into agreements with the railroads with respect to wages and working conditions. We respectfully urge your committee to return an unfavorable report on the proposed bill.

T. J. MCGUIRE,
Chairman Yardmasters Association,
Southern Pacific Lines in Louisiana and Texas.

This morning the Chamber of Commerce of the United States of America asked permission to go on record as outlined in a statement which I have here. I will ask the permission of the committee to put it in the record. Without objection, this statement will be included in the record of this hearing.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, D. C., March 29, 1924.

Hon. JAMES COUZENS,
Chairman Subcommittee of the Committee on Interstate Commerce,
United States Senate.

DEAR MR. CHAIRMAN: As your committee has before it for consideration S. 2646, and has been holding hearings with respect to this measure, I desire to present for consideration by your committee the attached statement of the position of the Chamber of Commerce of the United States with respect to proposals contained in S. 2646 and ask that this statement be printed in the record of your hearings.

Very truly yours,

ELLIOT H. GOODWIN,
Resident Vice President.

STATEMENT PRESENTED ON BEHALF OF THE CHAMBER OF COMMERCE OF THE UNITED STATES IN OPPOSITION TO S. 2646, SIXTY-EIGHTH CONGRESS, FIRST SESSION, PROPOSING A NEW RAILWAY LABOR ACT

The Chamber of Commerce of the United States, representing a large group of the public who are extensive users of transportation, has for many years recognized the importance of establishing effective methods for settlement of railway labor disputes. The position of the chamber on this subject is defined by referendum No. 19 of January 30, 1917, as follows:

"The chamber was committed by a vote of 1226½ to 18½ votes in favor of requiring by law that there shall be 'full public investigation of the merits of every dispute between railroad carriers of interstate commerce and their employees, to be instituted and completed before any steps tending to the interruption of transportation shall be attempted.'

"The chamber was further committed by 1165½ to 60½ votes in favor of requiring 'that upon any board of investigation or arbitration of disputes between railroad carriers of interstate commerce and their employees the employers and employees shall have equal representation, and the public, as having paramount interest, shall have a majority representation.'"

These declarations of the chamber followed a series of previous expressions of similar tendency emphasizing the public interest in the settlement of such disputes.

In the seven years that have intervened since the adoption of referendum No. 19 there has been no change in the position of the chamber on these important questions. The salient point in that position, to which attention is directed, is the paramount interest of the public.

The bill (S. 2646) goes directly against this principle. It would eliminate entirely any compulsory public investigation. While certain of the agencies which it contemplates would be composed of, or include, public representatives, action of such agencies which would inform public opinion and bring its influence to bear, would depend upon the voluntary agreement of both parties to the dispute. Furthermore, the success of direct participation of such bodies in the settlement of disputes would also be entirely conditioned upon the willingness of the two parties.

Among the principal objections to bill S. 2646 are the following:

1. The bill repeals Title III of the transportation act, thus abolishing the machinery set up thereby for the settlement of railway labor disputes, without sufficient experience to justify such sweeping action. The provisions of Title III have not fully been put into effect—for example, in relation to the organization of adjustment boards. Furthermore, the occurrence of the shopmen's strike, which has been cited by the proponents of this bill as showing the failure of Title III, does not constitute any proof that conditions would not have been worse without Title III or with other legislation substituted. The experience up to date is not sufficient to warrant a conclusive finding of opinion as to the effectiveness of the various provisions of Title III.

2. Both under the transportation act and in S. 2646, there is a clear differentiation between labor disputes involving (a) changes in wages, rules and working conditions and (b) grievances and the application of agreements. With regard to disputes involving changes in wages, rules and working conditions, S. 2646 proposes, as a substitute for the compulsory public investigation required by the present law, only voluntary arbitration, thus leaving within the power of either party to prevent any public ascertainment and publication of facts by simply refusing to accept arbitration.

3. The voluntary arbitration proposed would be restricted to such specific points as might be agreed upon in advance by the parties to the controversy, thus interfering with the full measure of public investigation, even when arbitration is accepted.

4. A further objection to the bill lies in the fact that it does not give the public a majority representation upon the boards of arbitration which it proposes. Any change in the existing law for the settlement of railway labor disputes should follow that principle.

5. While the bill retains the provision of existing law making it the duty of the parties to settle disputes whenever possible by mutual agreement, the effectiveness of this provision would be largely destroyed by the proposed elimination of any ultimate public fact-finding tribunal.

6. The Board of Mediation and Conciliation proposed by this bill would provide no effective substitute for the public investigation required by existing law. It would, as its name signifies, only constitute an intermediary whose accomplishment of results would depend largely upon the employment of methods of secrecy and compromise, and would have no power to give effective expression to the public view or to inform public opinion.

7. The proposed bill eliminates the protection of the public interest which the present law provides through (a) the requirement that any decision of the Railway Labor Board dealing with wages or salaries must be concurred in by at least five of the nine members of the board, including at least one public representative; and (b) the authority of the Labor Board to suspend and review any mutual agreement of the parties which may, in the opinion of the board, have the effect of requiring an increase in railway rates.

8. Section 6 of the proposed bill provides for penalties against changes in rates of pay, rules, or working conditions for specified periods prior to, and for indefinite periods during, action of the Board of Mediation and Conciliation, but makes no provision against interruption of traffic prior to or during such proceedings. This does not appear equitable or in the public interest.

9. With regard to the provisions for the adjustment of disputes relating to grievances, or the application of agreements governing wages, rules, or working conditions, the bill proposes to do away with the flexible system of adjustment boards which, under the existing law, may be local, regional, or national, and which are gradually being worked out to suit the practical requirements of the existing conditions. It proposes to substitute for this flexible system four nation-wide adjustment boards, to be established not by agreement, with adaptability to local conditions, but on a uniform nation-wide basis.

10. In the provisions contemplated for the nomination of the labor members of adjustment boards exclusively through the nationally organized railway labor crafts, the bill proposes to override those large numbers of employees who are not members of the national organizations of the crafts to which the bill accords representation. In some of the crafts, not engaged in train service, the membership of such national organizations is less than a majority. Furthermore, there are numerous minor organizations of crafts which the bill does not recognize. Such a legislative enactment would thus deprive a large number of railway employees of representation or force them to join one of the national labor unions of crafts mentioned in the bill.

In large part this bill is a proposal to return to the status quo ante which existed prior to Federal operation of railways incident to the war. That previous status was, however, unsatisfactory both to the carriers and to the employees, as evidenced by repeated declarations on the subject, and was ineffective, as evidenced by the refusal of the unions to arbitrate in certain important cases. That it was also unsatisfactory to the public interest is evidenced by the many declarations of the public view of tenor similar to those of the National Chamber of Commerce, which have been cited above.

The CHAIRMAN. I understand, Mr. Robinson, that you have concluded what you wished to say?

Mr. ROBINSON. Yes.

The CHAIRMAN. Then, Mr. Richberg, you may proceed.

Mr. DANIEL R. RICHBERG. Do I understand that the carriers have concluded their presentation? I thought Mr Thom wanted to say something?

Mr. THOM. I do when the whole matter is in Have you any more evidence?

Mr. RICHBERG. We wish to make replies to the statements made.

Senator DILL. I think the carriers disclosed their case.

The CHAIRMAN. Have you closed the case, Mr. Thom?

Mr. THOM. I wanted to discuss one or two points of the bill.

The CHAIRMAN. Very well; we will hear you now.

STATEMENT OF MR. ALFRED P. THOM

Mr. THOM. Mr. Chairman, I do not understand that, after the evidence which has been heard, this committee would care for a complete analysis of this bill, and I shall not attempt, therefore, to go into details with respect to it.

There are one or two very fundamental considerations, however, which seem pertinent to the matter now under consideration and to which I would like to invite the most careful attention of the members of the committee.

I think that it is obvious that the public is interested in legislation of this character in two important and controlling respects.

First, the public is interested in continuous and uninterrupted transportation; and, second, the public is interested in having such transportation furnished at a cost which will not constitute an undue burden upon the industry of the country.

The proposed measure entirely ignores both of these aspects of the public interest, as I shall attempt to show.

The ideal situation in respect to these essential public agencies would be that both the carrier when it enters upon the field of performing its transportation service and all of the employees when they engage in that essential service shall do so with the understanding that the obligation on both must be that they will not interrupt that service.

There should be, if this matter is ever settled right, an implied acknowledgment and engagement on the part of the carrier on entering this field that it will not fail to perform the service at any moment;

that it will not interrupt the service; that it will continue to carry the United States mails and the public traffic without interruption; and, similarly, there ought to be the implied obligation on the part of every man that engages in the service that he recognizes the essential public interest of continuous and uninterrupted transportation, and that he will under no circumstances do anything to interrupt it by agreement or compact with anybody else.

Now, that would involve, as an essential corollary of the arrangement, that the Government would undertake to see that justice is done to those employees. So that the ideal situation in this essential industry would be that there would never be an interruption in the service and that the Government would see justice done.

I know that the public mind has not yet gone that far, but it has gone to the extent that there must be every reasonable safeguard against interruption of the public service. This brings me to the first point of the two points to which I have invited your attention. I will ask you to consider how far the provisions of this bill take any note whatever, of a practical and substantial kind, of that public interest.

The measure provides for conferences between the parties; it provides for adjustment boards by parties without any public representative, it provides for boards of conciliation and mediation which would use its persuasive power to bring about agreement, and it permits, but does not compel, arbitration. So, the result is that at last the parties that do not agree, are not compelled to agree. Machinery is set up which may bring about an adjustment but for which there is no sanction. The only sanction to which Congress so far has, in dealing with labor controversies, been willing to commit itself, is the sanction that will be created by the development of a public opinion on the matters of a controversy. That sanction is omitted from this bill. There is no way created by its provisions by which there shall be a fact-finding body, a conclusion as to the merits of a controversy, and an announcement to the public of what the merits are. That is in the present act of Congress. The congressional thought of the country has advanced to that point. Now, this provision, this machinery, proposes to omit that absolutely and to leave the parties perfectly free to carry their controversies to any extent passion may dictate, and provides no method of developing public opinion, which might and probably would bring pressure upon them to make an agreement and thus to prevent an interruption of the public service.

I wish the committee to consider whether, in abandoning this policy, it will not be taking a step backward which the public interests will not justify. Ought not there to be at least an adherence to the progress already made in respect to these matters and the creation of a tribunal which will examine into the merits of a controversy, which will announce its conclusions, which will concentrate public attention and public opinion on the subject, and will give at least the weight of that public opinion to the adjustment that is to be made, and the pressure of that public opinion in bringing about a settlement.

Even if there is an arbitration and all the steps contemplated by this bill are pursued, eventuating in the judgment of a court on the arbitration, then, in my judgment, the bill contains no provision by which that arbitration is in reality made binding on more than one

of the parties. The carrier is bound, and possibly the union, in its corporate or quasi corporate capacity; but the men who are to prevent the interruption of transportation, the men whose dispute has been submitted to arbitration, are still left, under the terms of this bill, as they were left under the terms of the Newlands bill, free to leave the service, and it is provided in this bill that no courtcan prevent them.

Now, I am not forgetting or forgetful of the claim that involuntary labor can not be forced; that each individual must be left free to perform service or not to perform service; but that, Mr. Chairman, is a very different thing from allowing men to leave a service in concert and conspiracy for the purpose of interrupting transportation; and this committee, if it considers the passage of the measure in any of its aspects, ought at least to provide that when two or more men, after such an arbitration, conspire together to leave the service for the purpose of interrupting the transportation and violate the award and the judgment, such action on their part shall be considered a conspiracy in restraint of trade and treated as other conspiracies in restraint of trade are treated.

You will, of course, understand the distinction I am trying to draw between the absolute freedom of the individual to work or not as he chooses and his obligation to refrain from conspiring with others to interrupt transportation.

Senator DILL. That is not in the present labor act?

Mr. THOM. No; but in the preset act you have the public opinion I am talking of as a safeguard against interrupted service.

Senator DILL. I did not mean to interrupt your train of thought.

Mr. THOM. I am talking about first where there is no arbitration and then I am commenting on what is the effect of arbitration if it is had.

Now, if arbitration is to be made effective, there should not be made an opportunity for the men whose dispute has been arbitrated then to conspire and to concert themselves together for the purpose of leaving the service and interrupting transportation.

Passing from that point to the other aspect of the public interest, namely, the interest which the public has in the matter of the burden which the transportation of the country must bear—the freight and passenger burden in the way of charges which it must bear—I call attention of the committee to the fact that in the present law Congress advanced to the point, as has been pointed out to you, of providing a voice for the public in the matter as to what the agreements of the parties might do in the way of imposing this burden upon the public. In the transportation act, as you will remember, an agreement of the parties is made subject to be overruled by the Labor Board in the event it is of the opinion that it creates too great a burden in the way of transportation charges. It is provided that any agreement as to wages that comes before it must, before it is made effective, have at least one vote of a public member in its favor. The present act also provides that, in case the parties come to an agreement as to wages without resort to the Labor Board, the Labor Board shall have jurisdiction, in the event it considers the consequent transportation burden too great, to suspend the agreement and modify or affirm it as the merits of the case may require. Now, is it well to abandon these safeguards of the public interest at this time when there is such a demand for reduced freight rates, when the

thing that is standing in the way of a reduction of freight rates is the cost of transportation, when 54 per cent of the cost of transportation is made up of the labor costs—is it judicious to abandon the principles of giving the public a voice in the labor burden which may be agreed upon by the parties?

The committee heard the history of the methods employed during the last 15 years in the settlement of these wage questions, how there had always been a retreat on the part of the management, always a surrender to economic pressure. The public has at last said in one of the laws of Congress that it has an interest in that question. It has created the machinery, a voice for the public, in determining what these charges shall be. This bill does not attempt to continue it. It is an absolute abandonment of that step forward. Can the committee and Congress justify the silencing of the voice of the public in questions of what the amount of the charges for labor to be paid out of the revenue to be derived from the transportation shall be?

Senator GOODING. In the last increase of wages in the New York Central and the Southern and the Pennsylvania Railroads was the Labor Board consulted by them?

Mr. THOM. There is a rule of the Labor Board that any such adjustment as that, when it is made, a copy of it must be filed with the Labor Board, and the board has 10 days in which to suspend it in the event it thinks the burden is undue. That procedure was followed in the cases you have referred to.

But there is one other aspect of the matter which I will delay the committee to comment on.

The chairman asked me yesterday to point out the provisions of this bill, which establish dominance of the national organized crafts over labor members of the adjustment board, and I referred him to paragraphs a, b, c, and d of paragraph 1 of subtitle B and to the provision of paragraph 2 of subtitle B.

My attention has been called to the fact that in making these nominations it shall not be from exactly the number of 14 nominees, but a number of not less than 14 nominees, whose nominations shall be made and offered by the employees and subordinate officials, two by each of the nationally organized crafts described above, and of such two not more than one shall be appointed. The suggestion is made that only 14 of the nominees must be made by the nationally organized crafts, and there is a margin through which they may be made by the others.

I do not believe that this bill can be read without arriving at the conclusion that it is intended to and will have the result of having the nationally organized crafts make the nominations which will become effective. They are the only ones mentioned. They are given specific power and no other way is created for anybody else to make the nominations. The patron of the bill admitted this morning, as I understood, that that was the purpose of the bill, and the official organ of labor, published here in Washington, gives the same interpretation to it, so that whatever may be involved in these words "not less than" is a matter which we submit can not be of any practical moment in the consideration of the bill, and that the effect of it will be, and we believe the purpose of it was, to confine the control of these nominations to the adjustment board to the national crafts organizations.

STATEMENT OF DONALD R. RICHBERG

Mr. RICHBERG. Mr. Chairman, the presentation which we are making takes two phases. There are the legal questions involved in this bill. There are the economic questions, the fact bases for such legislation.

Now, so far as these two questions can be distinguished, Mr. Robertson and I have endeavored to present them separately. What I propose to offer now is not in the nature of an argument, but in the nature of an explanation of the provisions of the bill, the bases for these provisions, and the support of the provisions of the bill by the very men who have come before you and attacked them, who are on record in writing as supporting the program we advanced in some of its most important aspects.

It may be an unfair reflection, and yet to the proponents of this bill there can not but be a certain slight measure of comfort in the opposition of the representatives of the carriers to the bill, because I think it is a fair statement that in all the legislation which is combined in the interstate commerce act and related sections which has been brought to Congress for the protection of the public interest the carriers have been found in every instance opposing the enactment of such legislation with their fullest power. Perhaps the one exception is the so-called Esch-Cummins law of 1920, which the carriers themselves sought from Congress, and in order to create a public opinion to support which they spent, according to their own admissions, millions of dollars; and that law, as distinguished critics of it have stated, they have themselves sought not to live up to in good faith and have ignored its labor provisions.

Senator GOODING. Can you furnish the record of any statement that the railroads have made that they spent some millions of dollars in the enactment of the Esch-Cummins law?

Mr. RICHBERG. I think Mr. Robertson can furnish statements in that regard. I will leave that to him.

Now, a considerable portion of the opposition voiced here to this bill is not opposition to the bill before the committee in any way. It is opposition to some distorted thing which has been set up before this committee like a straw man and torn to pieces.

Mr. Walber suggested in answer to certain questions this morning that perhaps they did not understand it, but they thought they did. I think it is, perhaps, charitable to presume that it is not understood by the representatives of the carriers, otherwise it would not be so completely misrepresented.

The fundamental purpose of the bill, I want to suggest again to the committee, so as to get back to the bill and away from this strange distorted thing before the committee now for a few days. This bill, according to the carriers' representatives, is supposed to strengthen the hands of national organizations of railroad employees and is supposed to require national bargaining, and almost the entire basis of opposition here has been to misinterpret the duty imposed upon carriers and employees of section 2 of the bill. This is a duty to exert every reasonable effort to make and maintain agreements concerning rates of pay, and then, for the purpose of making and maintaining these agreements, provision is made in section 3 that these disputes shall be decided in conference.

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Is there the faintest suggestion of a possible interpretation in section 3 that such conference must be between representatives of the national organizations and the carriers? There is not only not the faintest suggestion of that, but the language is directly opposite to that interpretation because the language of the bill provides in subsection 2 that "representatives of the carriers and of the employees and subordinate officials shall be designated by the respective parties in such manner as may be provided in their corporate organization or unincorporated association, or otherwise, without interference, influence, or coercion exercised by either party over the self-organization or designation of representatives by the other, and it shall be deemed a violation of the obligations herein imposed upon carriers for any carrier or its officers or agents to interfere with or attempt to influence or control, directly or indirectly, the organization of employees, or subordinate officials, or participate in the functioning thereof, or the designation of employees or subordinate official representatives."

Now, if the employees of the Pennsylvania Railroad or the Southern Pacific Railroad or the Union Pacific Railroad or any other railroads organize into what are called company unions, having no affiliation with national organizations, there is not the faintest compulsion in this section that the company shall deal with a national organization but as a matter of fact the entire compulsion of the section is that they shall deal with the organizations the employees maintain, and if this is an organization of employees and not a paper thing set up to destroy collective bargaining, there is nothing in the bill to prevent a railroad from dealing with its own employees.

So far as the making of agreements is concerned, this covers the making of the agreement and gives absolute freedom of contract, national or local. That is the way in which agreements are made. Now, how will you change those agreements? By precisely the same machinery. There is not a word affecting the national organizations or the national adjustment boards in any way which is concerned with changes of agreement. If agreements are to be changed, the same conferees are to meet and change the agreement, representatives chosen without influence or coercion by either side; in other words, self-representation. So, changes are brought about and if the conferees disagree they go to mediation and it makes no difference whether it is a national or a company organization, they have the same rights. The telegrams which the chairman of the committee read and which have been received from the company organizations are either written without the faintest knowledge of the bill or with the deliberate purpose of misrepresenting the bill. It is the choice between between ignorance and misrepresentation, the choice faced by all the witnesses of the carriers who made arguments here.

The only section of the bill in which there is the faintest excuse for this pretense that the bill builds up national organizations is the section covering organization of adjustment boards, and the adjustment boards are not chosen by the employees. The adjustment boards are appointed by the President of the United States; and for the purpose of aiding in the appointment, following the precedents established in the transportation act, it is provided that these appointments shall be made from not less than 14 nominees, whose nominations shall

be made and offered by the employees and subordinate officials, two by each of the nationally organized crafts which are described in the bill, and of such two not more than one shall be appointed. The only limitation is that one organization shall make only two nominations, and the number which can be made is not less than 14. For instance, for a board of 7 there may be 50 nominations.

The CHAIRMAN. If that is the interpretation of the bill, why do you enumerate the national organizations?

Mr. RICHBERG. The national organizations are not enumerated, merely the crafts. For instance, the machinists represent a craft and they may nominate a machinist for membership on the board.

The CHAIRMAN. I understand that, but why leave some crafts out in the enumeration?

Mr. RICHBERG. On that question I think my best authorities are the railroad representatives who appeared before you, because in their consideration of the matter, as I will now read it to you, they have agreed with us that those are the best organizations to experiment with in the establishment of national boards of adjustment under consideration, because they are the organizations with whom the railroads ordinarily deal; and if it is necessary in the future to establish other boards, we will agree with the railroads' representatives in their presentation heretofore of the matter that such a board should be established.

Now, to show the unfairness of the presentation made before this committee we find Mr. Hale Holden, chairman of the executive committee of the Association of Railroad Executives and president of the Burlington, stating that this is a partisan measure, that it has been put forward without conference or public discussion with either the railroad managements or the public. I will leave the refutation of that statement to Mr. Robertson.

Now, with regard to the boards of adjustment, he says that there has never been offered any satisfactory reason for their creation, and we find Mr. Carl Gray, the president of the Union Pacific, making a similar statement in which he agreed with Mr. Holden.

Now, if my information is correct, and the records of this committee are correct, both Mr. Gray and Mr. Holden, together with other leading railroad executives themselves recommended the creation of just such national boards of adjustment after the war period. I think the best argument we can advance to the committee is to read a portion of the report of the labor committee to the Association of Railroad Executives, now appearing before you, opposing the bill which they wrote in 1920, a report approved 8 to 1, and submitted to the association and rejected by the association only by a vote of 60 to 41, under circumstances to which I will refer later. I will ask the representatives of the Association of Executives to check me if I name incorrectly the names of the committee as it was set up in one of the committee's minutes.

Mr. THOM. I have not the list here. I can not, therefore, check the names. I have no doubt you will read them properly.

Mr. RICHBERG. I will state it was the labor committee in 1920. This committee of nine includes Vice President Atterbury, of the Pennsylvania system. First, Mr. Gray was chairman of the committee when his majority report of 8 to 1 was rejected. Then Mr.

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Atterbury became chairman. I will name him as chairman. The committee is as follows: W. W. Atterbury, chairman; W. G. Besler, of the Central Railroad of New Jersey; C. R. Gray, of the Union Pacific; Hale Holden, of the Burlington; J. H. Hustis, of the Boston & Maine; E. E. Loomis, of the Lehigh Valley; N. D. Maher, of the Norfolk & Western; C. H. Markham, of the Illinois Central, and J. H. Young, of the Norfolk Southern.

At least I think it will be conceded that the labor committee of the Association of Railroad Executives was a committee of men to study the operating problems of the road as they affected labor questions, and that committee made its majority report of 8 to 1, with Mr. Atterbury alone dissenting in the following language which I requote for the information of the committee as it appears in the report of the hearings before the Committee on Interstate Commerce of the United States Senate, Sixty-seventh Congress, when the hearing was held on Senate Resolution No. 23. The report as it appears in volume 5, at page 2246, is as follows. I will only read part of the report, the pertinent paragraphs of the report. [Reading:]

* * * It is but fair to state that to the majority of your committee this proposition did not, in the first instance, commend itself as a desirable thing to do. The matter was freely and fully discussed from every possible angle, with the result that the members present unanimously agreed upon the plan covered by the resolution which is submitted herewith for the consideration of the standing committee with the request that it be recommended to the association. * * *.

The only appellate body actually created in the transportation act, 1920, for the consideration and disposition of all labor matters is the Labor Board, composed of nine members appointed by the President, 3 representing, respectively, (*a*) the public, (*b*) the railroad managements, and (*c*) the railroad employees.

If no intermediate boards are provided for by mutual consent, as clearly anticipated in the law, then every disagreement arising upon an individual railroad in which the management and employees' representatives have not been able to reach an agreement must, of necessity, go directly to the Labor Board; and that board, not yet appointed, will have before it and demanding immediate consideration the whole subject of wages and working conditions, and covering practically every railroad employee; a herculean task when it is remembered that the three public representatives who hold the balance of power, will come to their task in all probability without practical experience in railroad wage matters.

We regard it as fundamental for the success of private operation that the Labor Board shall have an opportunity to function in matters of prime importance and that they should not be called upon to settle a large number of questions affecting discipline and details of operation, the proper disposition of which necessitates an experience and knowledge which the lay members could not possibly possess of railroad operations, practices, and vernacular.

We feel that this would result certainly in one of two things: (*a*) Either the board will break down under the accumulated weight of the mass of cases demanding immediate attention, or (*b*) it will resort to the practice followed by the Interstate Commerce Commission of designating so-called examiners to hear cases and recommend decisions.

We will state parenthetically there that the board has done both those things; it has broken down in the efficient decision of the cases, and has resorted to the practice of designating so-called examiners to hear cases and recommend decisions.

Continuing with the report:

We submit that the railroads can not afford to see the Labor Board break down under an accumulation of work which can be prevented, but we feel that no greater misfortune could happen than to attempt to handle discipline and interpretation matters by employing the services of examiners who, in the nature of things, would be laymen.

Appreciating, therefore, that the law contemplates that there shall be a final appeal to the Labor Board and that this appeal can be accomplished on any line by any of the organizations by 100 unorganized workers; or on the motion of the Labor Board itself; we were forced to the conclusion that in the best interests of the service and with the avowed purpose of assisting in every practicable way to make the law a success, we could best do this by undertaking to reach an agreement through negotiations with the representatives of the so-called "standard recognized labor railroad organizations," by which the three national bipartisan labor adjustment boards would be created.

Now, I will explain why these crafts have been particularly designated:

The Interstate Commerce Commission in designating groups of employees, in the first instance, included only the so-called "standard recognized railroad labor organizations," but have since felt obliged to permit several railroad labor organizations not heretofore recognized as such, and in addition organizations of so-called "subordinate officials," to make nominations to the President for appointment to the labor group of the Labor Board.

We do not feel that this subsequent action of the Interstate Commerce Commission need be embarrassing—

Although they are endeavoring to embarrass the committee with it now—

because if in practice it develops that the three boards are insufficient, others may be created by common consent.

From the testimony here, you would think that that contention had been remarkably changed from that time.

Continuing further in the report we find:

Originally therefore we have confined the proposed Labor Boards of Adjustment to the so-called "standard recognized railroad labor organizations," by reason of the fact they have asked for this consideration and because they are the ones with whom the railroad managements ordinarily deal.

We recognize that there have been instances where exception has been taken to the findings of the railway adjustment boards created by the Director General of railroads, and without attempting to argue the merits of such cases, we nevertheless submit that the operation of these three national equally divided boards should constitute no menace unless the management representatives thereon should prove to be incompetent, and the careful method of selection hereinafter recommended is a safeguard against any such condition.

They seem to assume that the labor representatives would probably be competent.

It is our belief that for the first six months a great many cases will come up on appeal from the individual railroads and possibly this condition will obtain for a year, and that they will always be very voluminous following any wholsale readjustment of wages and working conditions.

Their number can always be restricted, however, by proper handling in the individual lines, as time goes on the board will create precedents and will establish practices which will make it possible to much more readily and systematically dispose of new cases.

And yet now they come and state they do not want precedents established. They want boards all over the country without precedents.

The members representing both sides will soon become expert in the matters of consideration and disposition, and it is our belief that their consideration of these matters will reduce the number which will finally reach the Labor Board to a minimum; and, even then, such instances of final appeal can be so carefully presented by agreement in the labor adjustment boards that decisions by the Labor Board can be very readily reached.

Your committee gave thorough consideration to the question of regional boards and there was some disposition to favor this method originally, but after careful consideration it was discarded for two reasons:

(*a*) Because of the embarrassment which would result from conflicting decisions in the different regions.

(b) Because of the large number of men which would have to be provided and withdrawn from railroad official service if the regional method were adopted.

For instance, labor adjustment board No. 1 will require four railroad officers

That covers the four train-service groups.

"No. 2 will require six railroad officers"; those are the six shop crafts; and No. 3 will require five railroad officers."

These practically followed the Federal control, and this would mean "a total of 15 men."

We have figured there is a very good reason which we offer to the committee why these boards should not be enlarged beyond the amount of their immediate necessity.

The report goes on to say:

It is our recommendation that these men should be nominated to the standing committee by the special committee on labor and elected by the standing committee; their salaries and expenses to be approved by the standing committee and paid as a part of the regular expense of the association.

These boards should be located in Chicago.

We agree. The report continues:

In conclusion, the committee desires to emphasize the fact that the proposed plan of providing adjustment boards to dispose of grievances, rules, or working conditions, does not contemplate depriving a road of dealing with all such questions through medium of local adjustment boards, and it desires to point to the manifold advantages derived from a plan which will provide a clearing house through which disputes may be passed under conditions requiring a vote of the majority of membership, consisting of one-half representatives of the railroads and one-half of the employees, as against the alternative of running the risk of overloading the Labor Board, whose decisions will, after all, be made by the three public members. It does not need any argument to show that the effect of this plan will be to materially reduce the demands on the time of the Labor Board and greatly add to its efficiency.

All will agree that we would like to continue dealing directly and conclusively with our employees as was done in pre-war times, but we are dealing with facts, not theories, and if we do not take advantage of the permissive features of the law as regards the appointment of adjustment boards we will be compelled to accept whatever results from the handling of such matters by the Labor Board direct. General Atterbury alone dissents and will present a minority report.

Now, as this report of General Atterbury, the minority report, appears at pages 2248 to 2250 of the previous hearings of this committee of the Sixty-seventh Congress, it is not necessary to read that report, and I think I may simply summarize its tone and contents, because I can be rapidly checked by the committee if I am unfair in that summary.

The basis for the objection of General Atterbury to the organization of these boards was the bogy he set forth in this original minority report of the fear of increasing the power of the labor organizations, and in support of that he did not hesitate to go into the field of mere rumor and stated in his report:

I would further call your attention to the recently published reports that the Brotherhood of Locomotive Engineers and the Order of Railroad Conductors have affiliated themselves with the American Federation of Labor, and that this now gives Mr. Gompers a solid organization of over 5,000,000 men in this country. I have no doubt that this is or soon will be true, and that in addition the Brotherhood of Locomotive Firemen and Engineers and the Brotherhood of Railroad Trainmen will also join.

This application has never taken place. I wish you would also note the alarmist note of this minority report:

Can you not recognize the power for evil in such a concentration of control?

On May 1 of last year, in France, I witnessed the result of such concentration. Every railroad, every industry, every union, stopped on May 1, not because they had any wage adjustments or grievances under discussion, but merely to show their power—syndicalism in its most highly organized state. I quite grant that the proposition of the majority is much "the easiest way." It is also clear to me that "laissez faire" as a policy will ruin the country.

To acquiesce in the suggestion that we nationalize the voluntary board of adjustment is merely playing into the hands of those who have in mind a reproduction in this country of the situation in France and England.

Senator DILL. The first report you read, as I understand it, was made by the committee?

Mr. RICHBERG. The labor committee.

Senator DILL. And they were recommending the national boards of adjustment to assist the Labor Board?

Mr. RICHBERG. No; to be established by voluntary agreement of the employing organizations.

Senator DILL. To assist the Labor Board?

Mr. RICHBERG. Under the labor board act, they could be organized by agreement.

Senator DILL. And if disputes were settled there, they would not go up to the Labor Board?

Mr. RICHBERG. Yes.

Senator DILL. And that was voted down?

Mr. RICHBERG. By the association by 60 to 41, enough votes to carry the majority being carried by two roads alone, the New York Central and the Pennsylvania.

General Atterbury filed an additional report and inasmuch as that is the basis for the opposition which now exists in the Association of Railroad Executives, the policy that has been adopted, I think it is absolutely important for the committee to realize how little it has to do with railroad operation. The Association of Railroad Executives in its opposition to this bill and the position taken toward these boards, has merely endeavored to prevent the establishment of cooperative relationship of a fair character looking to collective bargaining in the railroad industry. In this additional memorandum, General Atterbury said:

As an evidence of the interest of the public in this situation, I invite attention to a question recently submitted by the United States Chamber of Commerce to its membership throughout the country to a referendum vote. This question, which is analogous to that with which we are dealing, read:

"The right of open shop operation; that is, the right of the employer and employee to enter into and determine the conditions of employment relations with each other is an essential part of the individual right of contract possessed by each and the parties."

And the vote was: In favor, 1,665; opposed, 4.

Private ownership is on its last trial. If it fails now, it fails completely.

Can it be possible that you will deliberately invite a condition inevitably enlarging the power and amplifying the influence of those forces which are determined to wrest from your control the properties which you now operate?

Throughout the critical situations through which the railroads have passed from Federal control to their return to private ownership, the railroads have had, most generally, the sympathetic cooperation and support of industrial and commercial organizations.

Later he added: "Our duty is clear. Make no contract whatever with the labor organizations."

The chairman asked me the other day as to pressure brought to bear on the Railroad Labor Board during operations, the pressure of public opinion or the control or effect of public opinion. Unfortunately, I have not with me this afternoon—I did not anticipate being called on—and I have not with me a compilation which was made of the telegrams, letters, and written threats of one sort or another, which were sent into the Labor Board, during the time that General Atterbury was conducting his general program of union smashing before the board.

As I say I have not the compilation of this voluminous set of letters and telegrams, etc., but the number of these letters and telegrams, from associations, chambers of commerce, business associations, and business houses, etc., runs into the hundreds, some of them abusive, some conciliatory, some generous in their offers of advice, but I can say from this information which can not be denied by any one familiar with the Labor Board files, that the board was practically deluged with propaganda from the organizations which were cooperating with General Atterbury. So, in this report, he pointed out that if the railroads would adopt union smashing, they would have the support of the chambers of commerce, etc., and we might as well face the issue perfectly squarely, for we find that he did bring around that support.

Now, I wish, without going into the details of the matter, to briefly present to this committee one other thing. I wish to add only this for general consideration: That this policy, not of working with and cooperating with the labor organizations but of trying to destroy the labor organizations, was adopted, as shown by the records which I have read, and the further records in the hearings of this committee, not by the operating men of the railroads, or the efficient operating executives, among whom Mr. Gray and Mr. Holden would have high places, but was adopted through the influence of the gentlemen connected with the railroad organizations who specifically represented the financial interests, as, for example, T. DeWitt Cuyler, who was president and who was not a railroad operating man at all, who was a banker and a director of many banks, and was practically without railroad experience, and thought he had entirely too much authority. He said so. With that we might agree.

That has all been brought out before the Interstate Commerce Committee of the Senate on previous occasions. The records of the hearings to which I have referred are crowded with evidence of the general proposition which I wish to have before the committee at this time, and that is the objections to the operation of this act, the objections to this proposed legislation do not proceed from the operating executives of the railroads, but from the economic policy dictated by the financial interests to strike down labor organizations, and I am not going into the matter in detail before the committee, the records are ample for the committee's study, but if the committee will consider the manner in which the protests are made here, it will bear me out in the statement that the alleged policy of operating efficiency is naught but a policy of dictated antiunionism.

I would like to contrast that with the attitude of the proponents of this legislation who come before this committee and come to Congress asking for legislation, making it the duty of employees and employers to make every effort to make and maintain agreements and leave it entirely free to the parties to select their own representatives without any effort to distinguish between the co-called company unions and the national organizations.

There are two or three broad questions which have been presented which I would like to touch on briefly before referring to some of the detailed criticisms of the bill. Most of the detailed criticisms of the bill are based on a fundamental misstatement of the provisions of the bill. I still assume that it is simply the stubborn inability of men to see a thing they don't want to see, their unwillingness to believe that a really fair proposition is being offered by the proponents of this legislation.

Before going into these matters in detail, I wish to refer to two or three general questions that have been raised: I am doing this as best I can from my recollection and my notes, as I have not had an opportunity to really coordinate them.

In the first place Mr. Walber brought out one broad question which is subject to much common misunderstanding, so much so that I think it worthy of just a little attention, and that is: What is the public interest and what are public representatives? There always seems to be an assumption that somehow there is a public interest which does not comprehend within it, at all, the interests of employees; that their interests are not involved in public interests although, always, it appears that the financial interests of the road are; and as a result public representatives are chosen time and time again in labor questions who are perfectly and obviously partisan to the employing side, and the repeated inability of public men to distinguish between what are really public representatives and what are, as a matter of fact, employer representatives, is one of the things that has discouraged the employees in their effort to submit matters to public representatives. There are just two instances that I would bring up. I will take, for an instance, the industrial conference which was organized by President Wilson, the National Industrial Conference. There were certain individuals named to represent the workers and certain individuals named to represent capital and employing interests, and certain public representatives named, and among those public representatives were John D. Rockefeller, jr., and Elbert H. Gary, two of the largest employers in the United States, two typical representatives of employers and capital, appointed as public representatives in such a conference. Now, what laughter and scorn would have gone up in the newspapers and elsewhere if Mr. Gompers and John L. Lewis were named as public representatives in a discussion between employee and employer interests, and yet it was not regarded apparently as farcical to name John D. Rockefeller, jr., and Judge Gary, two of the largest employers of labor. Mr. Willard, in all his fairness of presentation, does not seem to have distinguished in his mind this one thing. He pointed with pride to an arbitration in which he was a participant, and he gave it as a reason why the Labor Board ought to consist of five public representatives and one labor and one employer representative.

The CHAIRMAN. Did not he say two?

Mr. RICHBERG. Yes; I think two of each, and then five. Those five impartial and neutral arbitrators who served with Mr. Willard included Otto F. Eidletz; and to mention a few of Mr. Eidletz's connections, from 1902 to 1904 he was president of the Mason Builders' Association of New York and chairman of

the Building Trade Employers' Association, but he was a representative of the public in arbitration; then there was Mr. Albert Shaw, the editor of a most conservative magazine, a magazine depending on employing interests for all its advertising, a magazine that always has respected a conservative viewpoint. Then Mr. Oscar M. Strauss, an eminent public man but a man distinctively in every way of the employing interests. Frederick N. Judson—to use an old term, if I may, Mr. Chairman—a corporation lawyer, with large employing clients and railroad clients in St. Louis. Then there was Mr. Charles Van Hise, president of Wisconsin University.

The CHAIRMAN. Was he satisfactory to you?

Mr. RICHBERG. He was somewhat detached from immediate interest on either side, still one would not know what his prejudice might be.

The CHAIRMAN. Could you offhand name any public man that you know of who would satisfy the public interest, in your opinion?

Mr. RICHBERG. Well, I think that is one of the major difficulties, if the chairman please, the obtaining of so-called public representatives. It is so hard to find men who do not represent essentially one or the other point of view. It would not be suggested, probably, from an employer point of view, as an arbitration officer in a railroad question, that John L. Lewis, president of the miners, would be a useful arbitrator, although, from the railroad employees' viewpoint, they may say he has nothing to do with their industry, and in the same way, if you do not take a railroad man in a railroad arbitration, the mere fact that he is associated with the whole type of interests of the employing side seems to make him a proper representative. In our universities we have men removed from immediate public affairs, but they may be devoted to one or the other economic theory.

The CHAIRMAN. I would like to know if you can suggest some well-known public individual whom you would classify as a public representative?

Mr. RICHBERG. I think it is an exceedingly difficult matter to find these public representatives. That is the point. It is the great difficulty in matters of this sort to find any man so removed from class consciousness that he can really be regarded as a representative of public interests, and that is the reason why the use of these so-called public representatives should be reduced to a minimum and should be men merely brought into one situation and not continued indefinitely in office, so that if they do make a grave error they will only do it once.

I want to quote, and this will end this particular presentation of this matter, I want to quote from a very able and conservative present-day English judge on this question, Lord Justice Scrutton, because I think it is perfectly sound logic as to the frank difficulty of obtaining so-called impartial men. I quote from a book of his in which he says:

> The habits you are trained in, the people with whom you mix, lead to your having a certain class of ideas of such a nature that, when you have to deal with other ideas, you do not give as sound and accurate a judgment as you would wish. This is one of the great difficulties at present with labor. Labor says, "Where are your impartial judges? They all move in the same circle as the employers, and they are all educated and nursed in the same ideas as the employers. How can a labor man or a trade-unionist get impartial justice?" It is very difficult sometimes to be sure that you have put yourself into thoroughly impartial position between two disputants, one of your own class and one not of your class.

I present that line of argument merely to indicate some of the reasons why the groups of employees do not welcome with pleased anticipation the increase of so-called public representatives to settle their cases who, clothed with the sanctity of representing the public, as a matter of fact represent a class judgment against their interests, and I need only cite the Railroad Labor Board to indicate what a public board can do, and referring particularly to the chairman of that board, to indicate what a public member can do in expressing himself and thinking in a very class-conscious attitude.

I refer in passing also to one other matter concerning which Mr. Robertson will speak in a broader way, and that is the argument which underlay the three or four first formal statements presented to this committee. They are based on this theory: We are approaching a period of certain falling prices. This was the argument made. It will be necessary to reduce wages; in other words, the process of deflation of labor which began immediately after the war must be carried on, and therefore we must have some such body as the Labor Board that can swing the club of public opinion against the employees, because if they are permitted to go to arbitration, wages will not be reduced—apparently arbitration won't reduce wages, but if we can use this machinery of the Labor Board——

The CHAIRMAN (interposing). They did not say that, did they?

Mr. RICHBERG. I am putting this construction upon the words, if the chairman please. They did ask a continuance of the Labor Board. It is a fact that the Labor Board has not in any broad sense, possibly in an individual case, increased wages, except by consent of the carriers, because in the one instance cited in 1920 where the wage increase was long overdue, the representives of the carriers before a board itself admitted that the wage increase was due and the only controversy was as to the amount. In other words, the employer said to the board, "We are willing to increase wages," and they increased them and the carriers came immediately down to the Interstate Commerce Commission and, considerably on the basis of this $600,000 wage increase, obtained a rate increase of two or three times the amount.

Senator DILL. You mean $600,000,000?

Mr. RICHBERG. $600,000,000; yes. And they turned around, and I might almost say immediately, although it was not done quite so fast, but very promptly, organized a campaign to immediately reduce and take away the wage increase which they allowed to the employees. They immediately started, just as soon as the rates were obtained from the Interstate Commerce Commission, to cover this $600,000,000 wage increase, and so before the year was out the board was started on the wage reduction.

I ask how are the employees to be expected to have any confidence in a board that functions in such a way?

But as to this argument of future deflation, I have only one word to say, and I can speak from personal experience; perhaps I can qualify as an expert on the subject. An argument is made here before the Senate committee that we are in for an era of declining prices, and labor must come down with all other prices, yet before the Interstate Commerce Commission I have been meeting, for months and for years I may say, but I have been particularly meeting in recent months, the representatives of the carriers arguing that their property

should be valued at reproduction cost on the theory of increasing prices, increased price levels whereby they will get a higher value that way than on the basis of the investment, and as a matter of fact if they believed that we are facing an era of declining prices they would be in the position of arguing before the commission to actually fix the rates on the basis that will run the railroads into bankruptcy, because the dollar they are now investing would be valued at a lower amount than the amount actually invested.

Now, there must be some consistency in the representations of the carriers, and either before the committee or before the Interstate Commerce Commission they are stating that which is not their prime belief.

Now, there is one other matter I can also speak of from personal experience, and that is the claim made that the carriers have not violated the decisions of the Labor Board, but exercised their legal rights to litigate the decisions of the board, and raise questions as to the jurisdiction of the board to enter an order when they did not like the order. Of course, the violation, or jurisdictional question raised by the Pennsylvania Railroad Co. went to the United States Supreme Court and the Supreme Court of the United States handed down its opinion that the decisions of the board were not enforceable, that after the decision is made either party can reject or accept it, and the decisions are merely expressions of opinion of the board as to desirable moral duty or desirable activity on the part of the men or the railroads. So, by the actions of the railroads, a decision has been obtained from the United States Supreme Court making the board absolutely innocuous so far as furnishing any sure relief in case the decision is favorable to the employee.

Just an example of one of the carriers' actions: One of the main causes of the shopmen's strike was the fact that the railroads, to get away from the Labor Board decisions, this Labor Board of theirs that they love to foster and love to keep, to get away from the decisions of the Labor Board in regard to shop-craft employees, when those decisions were not as low as they thought they should be, they adopted the practice of contracting out the entire shop, overnight, which amounted to the discharge of the entire shop force, and the shop force were informed they could get employment of the contractor, and when they were employed by the contractor they were employed at reduced wages, and in that way the decision of the Labor Board was completely nullified.

The CHAIRMAN. How do you claim that the Labor Board decided against the carriers when you say the Labor Board is a body established by the carriers and, as you say, fostered by them?

Mr. RICHBERG. I do not say the membership of the Labor Board: I said the instrumentality; they created the instrumentality. I did not say they created the membership, although they exercised a pressure of influence.

Mr. THOM. Will you permit me to say that the railroads had nothing to do with the creation of the system of the Labor Board?

Mr. RICHBERG. I say this: That from the very beginning the employees opposed the creation of the board from the start to the finish. They were represented before committees of Congress and the carriers were represented before the committees, and they—the carriers—advocated legislation, so under the circumstances I would say that the

employees were not asking for the legislation and the carriers were seeking to obtain it and did obtain it.

Mr. THOM. He is entirely mistaken. There appears in the records of this Congress a complete story as to how that was done. The Senate committee had one provision on the subject and the House committee had another, and it was referred to the Director General of Railroads, and he came back with a bill which carried out those provisions, and that is a matter of record in the House of Representatives. We had nothing to do with it. It was the creation of a committee of Congress and the Director General of Railroads, on which there were no hearings and in which we did not participate.

Senator DILL. You are supporting it now?

Mr. THOM. We think it ought to be——

Mr. RICHBERG (interposing). I have the highest regard for Mr. Hines's ability and fairness, but I will state on the statement made by Mr. Thom my statement is completely supported because if the bill was the production of Mr. Hines, who was a railroad official up to the time he was made Director General of the Railroads and has been a railroad officer ever since, it is distinctly a measure that has proceeded from the railroad point of view even if the man appointed to formulate the law happened to be at the time the Director General of the United States Railroad Administration.

Mr. THOM. I may give you a little more definite reference as to where this will be found. Mr. Jett Lauck compiled a pamphlet on this subject in which the history of the matter is set out and in which Mr. Hines's letter to a Member of the House of Representatives is printed, giving a description of the extent to which he did participate in that. In that letter he stated he did not dispute the committee of Congress was intent upon some purpose and that his participation was simply to carry that into effect, and he did draw a bill and send it to Congress, and I always understood that bill was practically the labor provision of the present act. Am I right about that?

Mr. ROBERTSON. Except that the director general denied he was responsible for the labor provision of the act. He was asked for certain advice, and he gave it as to the adjustment board but denies responsibility for the labor provision in a letter to Mr. Barkley.

Mr. THOM. Have you that letter?

Mr. RICHBERG. Yes; I have that letter that Mr. Hines wrote regarding the boards of adjustment. I would like to complete my statement on this.

Senator DILL. I would suggest that the letter be read into the record.

(The letter in question is as follows:)

FEBRUARY 21, 1921.

Hon. A. W. BARKLEY,
House of Representatives, Washington, D. C.

MY DEAR SIR: I am told that the impression has been created, as the result of a remark made by you in a recent conference to Members of Congress and others, that I originated the labor provisions in the railroad bill.

If this impression has been drawn from what you said, I am sure what you said was misconstrued, because I am satisfied any statement you may have made on the subject was accurate.

In order to prevent the possibility of the situation being confused and of the idea prevailing in any quarter that the labor provisions represent a policy originated by me instead of by Congress, I shall appreciate it if you will be good enough to read this letter to the House.

Through the courtesy of the conference committee I received last Saturday a draft of the labor provisions, showing that the conference committee had definitely adopted two leading principles. The first was that there ought to be a wage board upon which the public, the employees, and the carriers would be represented. The other was that statutory provision ought to be made for boards of adjustment to deal with grievances.

I took the action of the conference committee on these two leading principles as indicating its final conviction that these two principles should be incorporated in the legislation. Taking this as the foundation for my consideration in the matter, I addressed myself exclusively to the question whether the details of the provisions agreed upon by the conference would satisfactorily carry out these fundamental principles. In transmitting my suggestions to Senator Cummins I stated that "This redraft is not designed to propose any independent view of my own on this subject but is designed simply to take the general scheme of the draft as already agreed upon and modify it so as to incorporate therein the suggestions made in my letter of the 14th instant."

As to the wage board, I have found that while the conference had adopted the three-party principle, that is representation of the public, labor, and carriers, it had provided for only one representative of labor and one of the carriers, as against three of the public. I therefore advised that a more satisfactory and reasonable application of the principles of three-party representation would be to have three representatives of labor and of the carriers, as well as of the public, making a board of nine instead of five.

As to the adjustment boards I found that the provision agreed upon by the conference undertook to specify the organizations of employees which should be represented upon these boards, and would result that the board of adjustment which would pass upon grievances would be dependent upon that particular organization to which the employee belonged, thus producing a great deal of confusion and endless jurisdictional conflicts between different organizations. I therefore advised that the entire matter of boards of adjustment be left to the agreement of the carriers and the employees instead of being made rigid and inelastic by statute specifications.

In the original draft which came to me I found that the boards of adjustment created thereunder were to handle not only grievances but various wage matters also. My experience with the railway board of adjustment and with wage matters in the railroad administration convinced me that it will be impracticable for such boards to handle both grievances and wage matters because of the enormous amount of work involved, and I therefore suggested that the adjustment boards devote themselves solely to grievance matters.

There were various minor features which I suggested. One was that a man ought not to be disqualified, as he was by the provisions agreed on in conference, from being a public representative of the wage board because he might theretofore have been an officer or member of a labor organization or an officer of a carrier. I also advised that representatives of the employees of the wage board would not be required, as they were in effect by the provision agreed on in conference, to give up necessary membership in their labor organizations. I also advised that there be added to the standards provided in the provisions which the conference had agreed to for testing the reasonableness of wages the further standard of correcting inequalities due to former wage orders and adjustments.

I requested our division of law to take the provision as agreed on by the conference and to make such changes therein as would be necessary to express the changes in detail which I above suggested, and I submitted this revised draft of the provision as agreed on in conference to the conference committee.

I think I should add that the draft of these labor provisions as it came to me provided that a dispute could be taken up by the adjustment board under several alternative conditions, which included among others a writ and petition signed by 100 unorganized employees or subordinate officials directly interested in the dispute.

I think it important thus to make it clear that the fundamental principles of the labor provisions are the principles agreed on by the conference committee, and that my connection was simply to suggest changes in detail which in my opinion would make the principles already adopted by the conference committee more workable than they would be otherwise. Copies of my letters on this subject to the representatives of the conference committee are attached.

Sincerely yours,

WALKER D. HINES.

Mr. RICHBERG. I would like to suggest that I endeavored with considerable restraint not to interrupt. I wish to refer briefly, if I may, to Mr. Walber's statement before the committee, because Mr. Walber made detailed criticisms of the act.

I am not going to try to take up the time of the committee to reply to each and every one of the statements. They are almost all based on a fundamental inability to read the English language through the glasses of prejudice which Mr. Walber put on when he started to read the act. His statement indicated that attitude and that he was quite incapable of exercising the limited amount of imagination that the chairman suggested. He simply could not see the act in any light except the way he was looking at it and his entire statement is enfilterated by statements which would be an absolutely flat misrepresentation if I did not think they were based on prejudice, a prejudice which has made him incapable of reading the language clearly.

He takes up the classifications and makes a great to-do about them. The reasons for the occupational classification statement in the act is very simple. In endeavoring to disintegrate the organizations of employees, it has been the regular practice of the companies to call them "subordinate officials" and when Congress gave to subordinate officials certain rights they classified some of their subordinate officials as officials and train despatchers found themselves suddenly becoming officers of the roads, and other subordinate employees found themselves with new titles so that they could not act any more, and in order to prevent that sort of chicanery and abuse of the law, this provision was written into the act in order to have a classification which would be sufficiently definite so that a man could not have his rights taken away by having his title changed. Mr. Walber completely perverts that detail of the act and says, "It is apparent that in so far as the management is concerned it may not change the classification of an individual employee without the approval of the Interstate Commerce Commission, but so far as the employees are concerned they are at liberty to insist upon a much greater change, viz, the transfer of an entire group of employees from the scope of one agreement to the scope of another."

Now, that is nonsense, pardon me saying so, but it is nonsense. That is exactly what it is. There is not a line in the act that permits an employee to transfer himself from one group to another group. The agreements of the railroads with the employees are based on work, they cover certain work which a man must do, and he can not change his work by changing his name. The law only proposes to designate who shall speak for the man, and does not change the agreements, and if a trainman sees fit to call himself a switchman, that does not change the agreement. There is no purpose of my taking the time of the committee to make a presentation in this technical question, this perversion of it, for it is absolutely without excuse.

Another sample, quite similar to that, is also found in what he said on page 5 of the statement where he demonstrates not only his prejudice, but his inability to quote correctly. He says:

> The declaration in section 2 making it the legal duty "to make and maintain agreements" is vague and can be construed, in connection with the 30, 10, and 20 daytime limit, and penalties on the carriers for changes in rates or conditions in

section 3, paragraph 3, and section 6, paragraph (a) and (b), as forcing collective bargaining through representatives in all cases.

He has not quoted the language correctly. The language is, "To make every reasonable effort to make and maintain agreements" and that is almost a complete answer to the position taken by the short lines in the controversy, because all that is required is that employer and employees make every effort, every reasonable effort to make and maintain agreements.

One of the main difficulties with Mr. Walber's presentation is this same prejudicial point of view. He looks at this bill as though it gives rights to organizations and it does not except for the provision that the national craft organizations can suggest a nominee to the President. He speaks of the organizations being able to do this, and that the only rights created in this bill are rights of individuals to belong to organizations as they see fit to belong to them, and be represented by those they have sent to represent them. These are precisely the same rights as are claimed by the railroads.

I do not believe it is necessary to attempt to justify before the committee the existence of national craft organizations, the necessity for real collective bargaining and honest representation, or that men shall have organizations extend outside the limits of individual shops. We think the Chief Justice of the Supreme Court of the United States in the famous Tri-City case recognized the situation and the necessity of the situation. Providing that these men do not see fit to use or avail themselves of such protection, they are not required to use it; by this act they are given the opportunity of choosing the real representatives and not forced to leave their affairs in the hands of agents of the management.

Now, a similar example of Mr. Walber's misconstruction or misrepresentation in his reading is his distorting of the language regarding "interference, influence, or coercion." He says that would interfere or prevent the management from putting in its side of the case. That provision has not a thing to do with the management presenting its case, that only concerns the selecting, the choosing of representatives and provides the employees may select their representatives without influence, interference, or coercion; in other words a fair start for a fair bargain, so that we will not be sold out before we get to the conference table. It has not any possible effect in preventing the management from influencing the employee to accept the management's point of view, but it does prevent the management from attempting to select for the employees their representatives.

I would like to have put in the record the testimony in the case heard in Philadelphia between the Pennsylvania Railroad Co. and the shop craft association in which the peculiar method of organizing an employee association was brought out on the witness stand by the testimony of the general manager of the Pennsylvania Railroad, showing they paid the salaries of the employees' representatives, that they helped write their constitution and printed their constitution and by-laws, and furnished them with officers and leaves of absence, gave them conventions at which they were entertained and permitted to have a pleasant time, accepting the agreement which the management had drawn up for their signatures on behalf of the employees. I would be very glad to present a portion or all of that record in this

proceeding to show the value of the type of telegrams that the committee is receiving from these, the company-organized associations.

The CHAIRMAN. How long will it be before you are through?

Senator DILL. It is 4 o'clock now.

Mr. RICHBERG. Now, if the committee please, I had hoped to present this very rapidly. I find it has taken longer than I thought. If the committee desires to hear me through, I will not take more than 10 minutes, or I can stop now.

Senator DILL. Mr. Robertson wants to be heard, too?

Mr. RICHBERG. If the committee would not object to my filing a memorandum commenting on these individual suggestions of Mr. Walber's I would content myself with filing a memorandum.

The CHAIRMAN. I think, as long as you have stated some of them orally, you might finish orally to probably a better result, when we have another meeting. I have to consult with my colleagues about another meeting. I think some of us have quite a lot to do to-night.

Senator DILL. I have an engagement and had one at 3.30 and have stayed half an hour now.

Mr. RICHBERG. I fear that I have imposed, perhaps, on the time of the committee.

Senator DILL. You may be prepared to present this later, and that is a discussion of the language on page 8, lines 19 and 22, about the selection of the board, whether that is confined to 14 men, or just what the real interpretation of it is. I want to know whether your understanding is that the President might choose from others than those nominated; in other words, if he can make independent nominations.

Mr. RICHBERG. As I understand the language, I think it is quite clear that the nominations are only to be not less than 14, but may be 28 or 50.

Senator DILL. I am calling your attention now specifically to page 8, line 21, "Whose nominations shall be made and offered by the employees and subordinate officials, two of each of the national organized crafts described above."

Mr. RICHBERG. I think that could be reasonably interpreted.

The CHAIRMAN. If it is agreeable to everyone, we will postpone these hearings until next Friday, April 4. I have some other requests from people who wish to be heard, and they can not get here before the 4th. The Railroad Labor Board wants to be heard, and I think we will hear them on the 4th.

Mr. RICHBERG. Will you want me to conclude my statement before you hear the others?

The CHAIRMAN. Yes. I think you may conclude and then we will follow with these others who want to be heard. We will adjourn now until 10.30 o'clock a. m., April 4.

(Whereupon an adjournment was taken at 4.15 o'clock p. m. until Friday, April 4, 1924, at 10.30 o'clock a. m.)

91243—24——13

ARBITRATION BETWEEN CARRIERS AND EMPLOYEES—BOARDS OF ADJUSTMENT

FRIDAY, APRIL 4, 1924

UNITED STATES SENATE,
SUBCOMMITTEE OF THE
COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The subcommittee met, pursuant to adjournment, at 10.30 o'clock a. m., in the committee room, Capitol, Senator James Couzens presiding.

Present: Senators Couzens (chairman), Howell, and Gooding.

The CHAIRMAN. There was some gentleman whom I met coming over here a while ago who said that he had another hearing that he was compelled to attend and would like to be heard by this committee at this time. I do not recall his name.

Mr. BEEK. Mr. Chairman, it is The National Industrial Traffic League that I represent.

The CHAIRMAN. Do you desire to be heard at this time?

Mr. BEEK. Yes, sir; I expect to present the case.

STATEMENT OF J. H. BEEK, EXECUTIVE SECRETARY NATIONAL INDUSTRIAL TRAFFIC LEAGUE, CHICAGO, ILL.

The CHAIRMAN. Give your name and whom you represent.

Mr. BEEK. My name is J. H. Beek, executive secretary of The National Industrial Traffic League, with offices at 1207 Conway Building, Chicago, Ill.

The CHAIRMAN. Tell us what this league is, will you?

Mr. BEEK. Mr. Chairman, I have a prepared statement in which that is indicated:

The National Industrial Traffic League is an organization composed of individual shippers, firms, and corporations, and of commercial organizations representative of shippers. Included in its membership are practically all of the chambers of commerce and boards of trade of the principal cities throughout the country. Directly through its membership and indirectly through the membership of these local organizations it represents several hundred thousand shippers. While the league does not assume to speak for these shippers individually, the position of the league with respect to the Railroad Labor Board and legislation affecting railroad labor was defined by resolutions adopted almost unanimously at meetings of the league, at which there was a large and representative attendance.

The league holds an annual and one or more special meetings each year in different sections of the country, and these meetings are

attended by upwards of 400 or 500 members. Subjects of importance are carefully studied by committees of the league, which submit printed reports that are discussed often at considerable length by the members on the floor of the general meeting. The whole railroad labor question has been before the league for several years, and there has been extended discussion of all phases of the question at the annual and special meetings.

The position of the league as expressed in resolutions adopted by a practically unanimous vote at the annual meeting in New York City on November 16, 1922, and ratified in the subsequent meetings, is that the Railroad Labor Board should be abolished and Title III of the transportation act of 1920, which contains the provisions for this board, should be repealed. The operation of this section of the statute was carefully observed and studied by the league for more than two years and a half before it reached its final conclusions with respect thereto. In voting for the repeal of Title III of the transportation act it was at the same time suggested by the league that the existing provisions of the Federal law for the mediation of labor disputes should be broadened and strengthened so as to give the Federal Mediation Board authority to act in all cases and to make public its findings and conclusions.

Some of the underlying reasons for advocating the abolition of the Railroad Labor Board should be here stated:

First. That board, as constituted under the law, is not a disinterested tribunal. It is composed of three representatives of the employers and three representatives of the employees to act with three representatives for the public. In practically all controversies the employee representatives vote for the contentions of the employees and the carrier representatives vote for the contentions of the carriers. The presence of partisan representatives upon an administrative or judicial board has a tendency to destroy its usefulness as a tribunal and such condition is contrary to the fundamental requisites of the judiciary in our American jurisprudence.

Second. We believe in preserving, as far as possible, the freedom of contract between employers and employees and the existence of such a tribunal substitutes their decision for the negotiations between carriers and their employees. The policy of having the Government intervene to determine the terms and conditions of employment will tend to destroy the individual initiative of the workmen and, at the same time, undermine the discipline and respect for authority which is necessary in an efficient business organization.

Third. The existence of a national tribunal to adjudicate such controversies tends to nationalize the industry and solidifies the national organizations of the employees on the one hand and of the executives on the other. It takes away from railroad managers the power and incentive to use business discretion in dealing with the local conditions peculiar to the respective lines and substitutes nation-wide rules and scales of wages which do not fit conditions in various sections of the country.

Fourth. We believe it is impracticable for a central governmental agency to determine the needs and conditions on every division of every railroad in this country without doing injustice to one side or the other.

Fifth. The very existence of a national tribunal to handle labor questions is a standing invitation to submit every kind of minor

grievance for its consideration. The great majority of the questions submitted to the existing board have been of this character, many of them being of the most trivial nature.

Sixth. The Labor Board has failed to accomplish the good results which its advocates predicted for it. It has been demonstrated that it will not prevent strikes, nor will it stop them when once they have been started. It has not prevented the intimidation of workers, the destruction of property, the impairment of transportation, nor the taking of human life. On the other hand, its acts have, in some cases, tended to precipitate such troubles. This is not the fault of the board as at present constituted but is the fundamental danger lnherent in any scheme where Government undertakes to make iabor contracts for industries.

Seventh. The Labor Board is not clothed with power to enforce its mandates and, if clothed with such power under the statute, it would still be impossible as a practical matter to compel men to work against their wishes.

Eighth. The Labor Board is not necessary. For many years our national laws provided machinery for settlement of labor disputes by conciliation and arbitration. Such laws averted numerous strikes and operated with greater success than has the Labor Board. There have been greater disturbances and interruptions to transportation since the creation of the Labor Board than during the preceding years when operating under the Federal Board of Mediation and Conciliation.

Ninth. The operation of such an agency as the Labor Board has a tendency to crystalize rules of seniority and working conditions, which operate to destroy the individual initiative of the workmen. Every possible step should be taken to leave a free, open road for every railroad worker to rise as he becomes proficient, and we can not expect this when we have a governmental agency to hedge the workmen in by hidebound national rules.

Tenth. We believe that private industry will be better off without the Railroad Labor Board. The artificial scales maintained by the national body for railroad labor operate to create unrest in labor conditions affecting private industry. The great inequality between common railroad labor and farm labor thus continued by the Labor Board, in defiance of the laws of supply and demand, has been one of the greatest factors in creating the serious crisis facing the farmers of the country. The farmers and the public pay these bills and certainly the Government should have no part in the continuance of these conditions.

These ten general observations in favor of the abolishment of the Railroad Labor Board and repeal of Title III of the transportation act of 1920 apply with equal force to the proposed boards to be established under provisions of Senate bill 2646 and constitute the grounds for the league's objections to that bill.

Senate bill 2646 would give the national organizations of employees a strangle hold upon the railroads and deprive railroad managers of all real control and discipline over their employees. It would very probably lead to conditions of higher wages and operating inefficiency that would necessarily result in a large increase in the railroad freight rates and thus lay a great burden of transportation taxation upon the country.

Therefore the National Industrial Traffic League desires to be on record in opposition to the bill.

The league is on record as favoring the broadening of the present arbitration law and the supplementing of it by giving to the President, or some other governmental agency, the power to appoint a special commission or committee to investigate the issues in any case of a dispute between a carrier and its operating employees, where arbitration has not achieved the desired result, and to make public its findings as to the contentions of the opposing parties as well as its recommendations with respect thereto. The working out of the details of this recommendation was left to the legislative committee of the league, which has not yet reached its final conclusions in the matter, and therefore we are not at this moment prepared to offer a more definite concrete suggestion along this line.

May we say in conclusion that at a meeting of the members of the league held in Washington on January 27, 1922, which was about two years after the passage of the transportation act, there was a strong sentiment among the members in favor of the abolishment of the Labor Board. Nevertheless, upon recommendation of the legislative committee the league adopted resolutions recognizing that the period of readjustment following the war was not yet ended, and therefore amendments of Title III of the transportation act of 1920 were proposed which, in a general way, would have provided a labor board consisting entirely of representatives of the public and having no representatives of carriers or employees, the functions of the board to be purely for intervention in critical disputes between train employees and carriers which threatened serious interference with interstate commerce and the conclusions of the board to be of no binding effect and simply for the information of the public in the effort to bring about settlement of the controversies and avoid paralysis of transportation.

At the meeting of the league held the following November in New York, as heretofore stated, it was voted unanimously that the time had come to repeal Title III of the transportation act and abolish the Labor Board. This action has been ratified at subsequent meetings, and the previous action is referred to only that this committee may understand how thorough has been the consideration given the question by the league membership.

Mr. Chairman, I am obliged to the committee for hearing me this morning. I may say that just before coming to this hearing I received a telegram which I would like to read and file with the committee.

The CHAIRMAN. It will be incorporated in the record.

(The telegram referred to is as follows:)

CHICAGO, ILL.

J. H. BEEK,
Washington, D. C.:

At a meeting of the legislative committee of the Chicago Shippers' Conference Association held to-day I was directed to request you and Luther M. Walter to represent our association at the hearing Friday, opposing the passage of Senate bill 2646, known as the Howell bill. Our main opposition to this bill is based on the fact that the public is deprived of any representation on the proposed boards of adjustment. In addition, provisions of this bill can not help but result in increased cost of transportation and decreased efficiency in service.

H. G. LEGAN,
Acting Chairman Legislative Committee.

Mr. Chairman, that is all I desire to say.

The CHAIRMAN. Who are the members of your legislative committee who approve of this document that you have just read?

Mr. BEEK. R. C. Fulbright, president of the Houston Compress Co., of Houston, Tex., is the chairman; W. H. Day, jr., managing director of the Lynn Chamber of Commerce, of Lynn, Mass.; J. S. Davant, commissioner of transportation of the Memphis Freight Bureau, Memphis, Tenn.; H. P. Friedman, traffic manager of the Portsmouth Cotton Oil Refining Corporation, of Portsmouth, Va.—Mr. Friedman is here with me this morning; E. H. Hogueland, commerce counsel of the Chamber of Commerce, of Topeka, Kans.; D. O. Moore, traffic manager of the Chamber of Commerce of Pittsburgh, Pa.; Herman Mueller, traffic director of the St. Paul Association of Public and Business Affairs, of St. Paul, Minn.; P. M. Ripley, traffic manager of the American Sugar Refining Co., of New York; and A. F. Vandergrift, manager of the traffic department of the Louisville Board of Trade, Louisville, Ky.

Those are the gentlemen that are on the legislative committee representing the league.

The CHAIRMAN. How many individuals or corporations are interested in your league?

Mr. BEEK. We have a membership of approximately 1,000 members, individual members; and that includes the chambers of commerce and boards of trade and commercial organizations of that character; so that directly and indirectly we represent several hundred thousands of shippers. I could not tell you how many. Take, for instance, the Merchants' Association of New York, the Boston Chamber of Commerce, the Chicago Association of Commerce, the Philadelphia Chamber of Commerce, etc.

The CHAIRMAN. Do these members approve of this statement, outside of the legislative committee?

Mr. BEEK. It was voted on at three different meetings at which there was an attendance at two of the meetings of over 450 each. Those are annual meetings, and they are well attended. In the meeting where this was first taken up there was an attendance of about 200 members.

The CHAIRMAN. And they were unanimous in agreeing to this?

Mr. BEEK. Practically unanimous, Senator. I would not say unanimous. Practically so; by an overwhelming vote anyhow.

The CHAIRMAN. That is all you have?

Mr. BEEK. That is all I care to say, except that I would like to have recorded that there have accompanied me here J. M. Belleville, chairman of the executive committee—Mr. Belleville is with the Pittsburgh Plate Glass Co., of Pittsburgh, Pa.; also, E. A. Jack, transportation manager of the Aluminum Co., of America, of Pittsburgh; and H. P. Friedman, of the Portsmouth Cotton Oil Refining Co., of Portsmouth, Va.

That is all I have, Mr. Chairman.

Senator HOWELL. When did this meeting take place in Washington?

Mr. BEEK. It was taken up in the first instance on January 27, 1922. It was subsequently voted on at the annual meeting at New York in November, 1922, and reconsidered and voted on again at the annual meeting in Chicago, November 15 and 16, 1923. It has been up before three meetings. At those two annual meetings at New

York and Chicago there was an attendance of between 450 and 500 actual members.

Senator GOODING. Do I understand that at those meetings your organization went on record as against the Labor Board?

Mr. BEEK. As I have defined it.

Senator GOODING. Yes; I did not quite hear all of your statement.

Mr. BEEK. Well, it is in the record.

Senator GOODING. That is all I wanted to know. Did you give the reasons why you are against the Labor Board in your statement?

Mr. BEEK. I did; in detail, sir.

Senator GOODING. Well, I shall be glad to read it.

The CHAIRMAN. When these meetings took place the Howell bill had not been drafted, had it?

Mr. BEEK. No.

The CHAIRMAN. When did you conclude to oppose the Howell bill?

Mr. BEEK. Our legislative committee, which acts in the interim between meetings, applied the principles of our opposition to the labor board to the provisions of the Howell bill, and directed me to present this statement.

The CHAIRMAN. When did they do that?

Mr. BEEK. Within the last few weeks. I will say, Senator, that I have been confined to the hospital for three months and only resumed work on Monday last, and this consideration was going on during my absence. I am a little out of touch with my own affairs.

Senator HOWELL. How many members are there of the legislative committee?

Mr. BEEK. Well, I read them; 10 or 12. I have forgotten. I am just informed that there are 9.

Senator HOWELL. Do you remember how many were present when this bill was under consideration?

Mr. BEEK. I do not know, Senator, and I would not speak definitely. As I say, I have been out of touch with things, unfortunately. I do not think there has been any meeting. I think it was handled exclusively by telegrams and correspondence.

Senator HOWELL. That is, the matter was taken up individually by these?

Mr. BEEK. By the chairman with each individual member.

Senator HOWELL. But there was no real discussion about it?

Mr. BEEK. I do not think there was any discussion of the Howell bill proper because there could not have been. There has been no meeting that I know of.

The CHAIRMAN. When we adjourned the other day Mr. Richberg was in the middle of a statement, and I would like to ask Mr. Richberg if he would like to complete his statement.

Mr. RICHBERG. I would like the opportunity of completing it, if that would suit the committee.

The CHAIRMAN. Very well; Mr. Richberg will complete his statement.

STATEMENT OF MR. DONALD R. RICHBERG, COUNSEL FOR ORGANIZED RAILWAY EMPLOYEES, IN REPLY TO OBJECTIONS OF REPRESENTATIVES OF THE CARRIERS

Mr. RICHBERG. Mr. Chairman, I will endeavor to condense my material more than I could in the former presentation.

After the somewhat disorganized reply to the carriers' objections which I presented to the committee on short notice March 29, I think it would be serviceable to summarize these objections and our reply in this statement. I desire to consider largely the fundamentals of the proposed legislation in order to see how far the carriers have raised any valid objections to the underlying principles of the Howell-Barkley bill.

First, as to the general duty: It was admitted by Mr. Holden, the chief spokesman for the carriers, that the general duty imposed in this bill, which he phrased as "to exert every reasonable effort to settle controversies locally without resorting to outside intervention," is, as he stated, "the established practice and is the method promoted and desired not only by representatives of employees but also by railroad management."

Criticisms of the manner in which the bill proposes to enforce this general duty were offered largely by Mr. Walber. His method of criticism consisted in, first, a distortion of the language or the natural meaning of the language of a particular provision, and then the presentation of an imaginary and unhappy situation which would result from the enactment of such an imaginary provision. This effort so exhausted Mr. Walber's imagination that, when the chairman of the committee asked him to exercise his imagination a little further in order to imagine that some of the imaginary difficulties did not exist, he found himself absolutely incapable of further imaginative effort.

Mr. Walber stated that the bill forces collective bargaining in all cases, no matter how unreasonable such requirement may be; yet the bill distinctly provides that carriers and employees "shall exert every reasonable effort to make and maintain agreements in order to avoid any interruption to the operation of any carrier." The bill therefore requires only reasonable efforts just as are required by the present law, and Mr. Walber's argument that it requires unreasonable efforts completely fails when the language which he omitted in quoting section 2 is called to attention.

Mr. Walber next objects to an imaginary permission given by the bill to labor organizations to represent men who do not want to be represented, stating that this proposes to give them a right by law to represent men who do not desire their representation, and states the intent of the bill is "to establish by law the control of national organizations over railroad employees." The bill expressly provides that the spokesmen for all employees and subordinate officials shall be "representatives designated and authorized so to confer," which is exactly the requirement of the present transportation act.

But, this requirement of the transportation act has been dishonored and nullified by a large number of carriers for whom the Pennsylvania Railroad sets the pace, and employees and subordinate officials have been forced by the actions of the carriers to accept the results of representation by representatives not of their choice, but

who have in fact been repudiated by them. Proof of this assertion will be submitted at a later point.

Therefore, the present bill provides legal requirements to protect honest representation of employees and to prevent the dishonest choice of their representatives by the carriers. One of these requirements is that representatives shall be designated "without interference, influence or coercion by either party over the self-organization or designation of representatives by the other." Mr. Walber completely distorts this requirement by stating repeatedly that this prevents the management from "submitting its side of the case to the employees." Nothing could be more absurd than to claim that, when conferences are held and every reasonable effort to make and maintain agreements is made, there is anything in the act which prevents a management from submitting its side of the case completely to the employees.

The only restriction in the act is, that the carriers shall not select directly or indirectly, or bring about the selection of alleged representatives of the employees who will be in fact the agents of the carriers and thereby perpetrate a fraud upon the employees, a fraud resulting in fraudulent contracts which would not bind the employees in a court of law, a fraud which promotes strife and not peace.

Mr. Walber continues his unfair criticisms by complaining of the requirements of subsection 7 of section 3, insuring the beginning of conferences. He complains that these requirements are impossible to obey. These requirements go no further than common practice in the courts of the country whereby any suitor has a right to make a motion to bring the opposing party into court in order that the matter may be set for hearing. It makes no difference how busy or congested the courts may be, they are always open for parties to inaugurate proceedings in support of their rights. The court may not be able to hear the case immediately, but the right to institute it and compel the attention of an adversary is absolute in our courts.

If railroad officials are too busy with a multiplicity of disputes to proceed immediately to negotiations in conference, the present bill only requires that such negotiations shall be instituted, the disputes to be considered and, if possible, decided with all expedition. Nothing impossible is required or any unreasonable expedition of conferences, but this provision has been shown by experience to be absolutely necessary to prevent carriers from arbitrarily refusing to meet with representatives of the employees and to prevent carriers from postponing week after week and month after month the consideration of disputes. These provisions are sponsored by practical railroad men to meet practical difficulties and to insure an honest compliance with the law, based on their experience of many years, and particularly their experiences under the transportation act with the various devices by which the carriers have evaded the law.

In this connection it is proper to reply to another objection offered by Mr. Walber to a requirement which he distorts absurdly into an unreasonable one. He objects to the provisions for establishing classifications of employees in such a manner that they may not be arbitrarily changed by the carriers to the detriment of the employees. Here again the employees have sought to prevent evasions of the duties imposed by the act by methods which have been frequently adopted by the carriers. The necessity and value of such classifications have been frequently recognized by the Interstate Commerce

Commission and by the carriers themselves. Many of the carriers have, however, found an adroit means of evading the requirements of the transportation act by arbitrarily changing the titles of positions, and that has been a frequent practice. They have evaded dealing with employees upon the claim that employees were subordinate officials. They have evaded dealing with subordinate officials on the claim that they were officials.

An example of the possibilities of the situation is clearly given by Mr. Walber who states that "the backbone of the maintenance of way organization is in its membership of section foremen who are classified under the Interstate Commerce Commission classification as subordinate officials." The present bill does not require section foremen to be represented by the maintenance of way organization, but it does permit them to be represented by that organization if that is their choice.

Mr. Walber asks that those whom the railroads call "subordinate officials" should not have the right to representation by an organization of those whom he calls employees; thereby the carriers would be able to take the position that the maintenance of way organization could not be chosen by the section foremen to represent them. In other words, he is asking that Congress assist the carriers in denying to railroad employees the democratic right of self-organization and representation by persons of their own choice.

To give another example: The American Train Dispatchers' Association has just won a four years' fight before the Interstate Commerce Commission for the right of self-representation. These dispatchers were classified as subordinate officials under Federal control and were denied representation as employees under the employees machinery set up. To meet this situation the term "subordinate officials" was included in the transportation act. Thereupon the carriers insisted upon kicking the dispatcher up another flight of stairs, announcing that they were officials. The carriers obtained a ruling from the Labor Board which assisted them in this effort, and one of the railroad members of the Labor Board actually sent a letter to the eastern, southeastern, and southwestern bureaus, which was later sent to the Western Association by its representative, pointing out in substance that to get the full benefit of the Labor Board's helpful decision all the carriers had to do was to reclassify some of the dispatchers.

By a decision in Ex parte No. 72 recently handed down February 5, 1924, the Interstate Commerce Commission found it necessary to restate and reinterpret its rulings regarding subordinate officials in order to prevent widespread evasions by the carriers, under which ruling the chicanery utilized by the carriers in denying the dispatchers their rights of representation has been nullified.

Mr. Walber has simply sought to take advantage of the natural lack of information of this committee concerning the mischievous use of reclassifications by the carriers to defeat the will of Congress in order to set up a plausible pretense that the employees are seeking to have Congress control the carriers unreasonably.

Of what use is it for Congress to provide rights for, let us say, conductors and then permit the carriers to reclassify them as train operators and deny them these rights? Of what use is it for Congress to grant rights to "employees" and then permit the carriers to reclassify them as "subordinate officials" and deny them these rights?

Mr. Walber is even willing to turn provisions of the law upside down in order to make his point. He asserts the effect of the bill would be to have Congress settle jurisdictional disputes, although the bill itself expressly provides in subsection 7 of section 1 "that such occupational classification shall not be construed to define the crafts according to which railway employees are organized by their voluntary action nor shall the jurisdiction of such national craft organizations be regarded as in any way limited or defined by the provisions of this act." He has turned that completely upside down in presenting his statement to you.

The provisions of this act, therefore, grant no jurisdictional rights to any organization on account of the occupational classification or for any other reason.

Every employee is free to select his own representation, and here is another point, by selecting his representation, which Mr. Walber suggested he would do, it does not change the agreement under which he works; the agreements cover work performed. If the man is engaged in yard service, it makes no difference whether he belongs to the trainmen's union or to the switchmen's union so far as concerns the agreement covering the work he does. Certainly, the carriers will not contend they have one agreement for yard service work with the trainmen's organization and a different agreement with the switchmen's organization for the same work in the same yard. Therefore, Mr. Walber's assertion that a man can change from one agreement to another by selecting another organization to represent him states an absurd condition which could only be brought about through the absurdity of a railroad having two different agreements for the same class of work in the same yard with two different organizations.

I have gone into some detail as to these detailed objections offered by Mr. Walber, because, while they are not in any way constructive, which I would like to point out to the committee, or helpful in advising the committee as to what he would regard as fair provisions, they are of a destructive character calculated to impress the committee, as laymen not familiar with the intricacies of railroad operations, with the idea that through subtle partisan regulations the employees are seeking to impose unreasonable burdens and restrictions on the managements. As a matter of fact, each and every provision which has been criticized has been put into the bill solely for the purpose of preserving the rights of employees to honest representation in making agreements and honest enforcement of the terms of agreements, and to prevent those carriers who unhappily devote their major energies to harassing and disintegrating labor organizations instead of cooperating with them, from destroying the intent and purpose of legislation designed to promote cooperation for the benefit of both public and private interests.

In order to get a clear view of the act, consideration should now be given to the question of changes of agreements, and it seems to me the major effort of the carriers at the present time is to muddle up the act. The adjustment boards provided in the act have nothing whatsoever to do with the making or changing of agreements, although the carriers have constantly endeavored to induce that idea in the minds of the committee and likewise to mislead public opinion.

I have hoped to demonstrate that there is no provision concerning the conferences for making agreements, which grants any privileges to any particular organization of employees. The labor organizations sponsoring this bill are neither mentioned nor referred to even by implication in these provisions and the same statement is true regarding the provisions for changes of agreements.

The carriers will agree, as stated by Mr. Holden, quoting from him, "all important controversies have grown out of the demands of the employees for increased wages and improved working conditions, or for the maintenance of existing wages and working conditions." In other words, such controversies have grown out of changes sought by the employees or by the managements. Now, the proposed bill provides that there shall be no changes without notice. The present Labor Board, in a statement of principles in Decision No. 119, stated, "the right of employees to be consulted prior to a decision of management adversely affecting their wages or working conditions shall be agreed to by the management."

In the rules established in Decision No. 222 by the Labor Board 30 days' notice was required for all changes. Section 9 of the Newlands Act provided that Federal receivers should not make reductions of wages upon less than 20 days' notice of a hearing upon the receivers' petition. The requirement of notice of changes is not unreasonable or new; it is obviously an essential to peaceful operation under agreements whereby neither party may be suddenly confronted with a peremptory demand for a change, whereby the fear of such a demand hangs always over the heads of both parties.

According to the provisions of section 5, if a proposed change is not agreed on in conference then the Board of Mediation, a public body appointed by the President, consisting of five public men, the same group whom the carriers have pointed out should dominate the present Labor Board, five public men, has the opportunity and right to intervene.

If the Board of Mediation and Conciliation is unable to bring about an agreement, then their offer of a voluntary arbitration provides an obvious means for settlement of the controversy which neither party can afford to reject without losing its case in the court of public opinion. The arbitration award is made binding on the parties, is made a judgment of a Federal court enforceable against the parties, but no award of the present Labor Board has any force. Reviewing summarily the provisions of the law so far discussed, I think it is apparent to the committee that in the matter of making and changing agreements there is not one word in this bill which gives to any organization, whether local or national, any special privilege or right, but that the bill would simply grant to all employees and subordinate officials of the railroads the right to be represented in the making and changing of agreements by representatives of their own choice, thereby insuring honest and enforceable contracts to promote harmonious relations. Employees may act through a temporary committee, through a company union, or through national labor organizations, as they see fit, and I challenge the carriers to point out any provision in the bill which makes that statement not strictly accurate.

Now, let us take up the question of grievances.

Senator HOWELL. Just let me ask you a question there. This bill does not provide that adjustment boards shall take the place of the Labor Board?

Mr. RICHBERG. In no way.

Senator HOWELL. That ought to be very clear, because statements are being sent out over the country to the effect that this is merely a bill to substitute adjustment boards for the Labor Board, and so far as that is concerned it is without justification.

Mr. RICHBERG. The present transportation act provides for voluntary adjustment boards, and this bill simply makes it necessary to have those boards set up. But in place of the Labor Board machinery, what is provided is mediation, conciliation, and arbitration, with mediation by a public tribunal of five men.

Now, coming to the question of adjustment of grievances when a dispute arises over the application of an agreement. To provide a practical machinery for such adjustment of grievances there should be established only such tribunals as experience has shown to be necessary. It would be most unreasonable to ask Congress to set up a machinery for the adjustment of limited numbers of unimportant disputes. We would have been subject to immediate criticism, and proper criticism.

Therefore, four national boards of adjustment have been provided covering the principal crafts engaged in railway service which, by reason of the great number of men employed and the great number of technical disputes which have developed in the past, are clearly required to insure peace and justice.

At the outset it should be pointed out that this provision is not exclusive of any other machinery of adjustment, or of any other groups of employees, and that is a persistent misrepresentation of the bill. Provision is made for a national machinery for the adjustment of those disputes that affect the vast majority of employees, a machinery acceptable to them and to the Labor Committee of the Association of Railway Executives in the year 1920, as previously demonstrated by their report to their association.

If a railroad and its employees desire—and I wish it were possible in some way that this statement could be sent out instead of the misleading statements that have been sent out to these so-called "company" unions all over the country and subordinate officials—if a railroad and its employees desire to agree upon a local board of adjustment such a board is not prohibited. Such a board is merely an extension of the conference system between representatives of both parties and its decisions are decisions in conference as provided for in sections 2 and 3. The requirements of these sections apply equally to conferences at local points, or to extensions of those conferences by agreement to system conferences. Under the present act, however, if the representatives of the employees and carriers do not agree upon a decision in conference, and have not provided for a local adjustment board as an extension of the conference, the transportation act requires that the dispute shall go to the Labor Board.

The carriers object to the proposed boards of adjustment on the ground that they are national. But the Labor Board to which all such disputes go now is a national board, and the carriers urge that this national board shall be retained. Grievances going now to the Labor Board are handled by examiners whose conclusions are

reviewed by a tri-partisan board, the decision of which is controlled by nonexperts, the public representatives, who thereupon enter a nonenforceable decision. The proposed act would transmit the vast majority of unsettled grievances to a technically equipped board, bi-partisan, whose decision would be binding upon the parties as an interpretation of their contract. Both the present Labor Board and the proposed boards of adjustment furnish a machinery of national adjustment of grievances, both of them. But in the case of the Labor Board the adjustment is made by men not technically qualified, whose decision is not binding, and under the proposed bill the adjustment is made by technically qualified arbitrators whose decision is binding. The history of adjustment boards shows conclusively that these boards would decide practically every case, and only in rare and unimportant instances would there be any necessity for utilizing the machinery of mediation or arbitration to determine a dispute concerning merely the application of an existing agreement.

The objections to these boards of adjustment are each and every one based on misrepresentations of the law. The chief objection urged—that they are national—can not be made in good faith by the carriers, who ask that the present single national board of adjustment shall be perpetuated. It is impossible to assume that as an objection in good faith.

Each one of Mr. Holden's four objections can be easily demonstrated to be unsound.

The first objection is that such national boards lose contact with local conditions.

The answer is that the existing Labor Board has no contact at all. Also we contend that it is desirable to get away from the local atmosphere of a grievance dispute to have it settled in a broad-minded way by men unaffected by local projudice. There will be less likelihood of losing contact with local conditions when the appeal that is possible is only to a bipartisan board than when, as at present, either party may be inclined to take a chance with a tripartisan board where the public representatives may be affected by considerations which would not control railroad technicians. If a grievance arises from an unjust demand, either of the employee or his immediate superior, partisan prejudice will inevitably retain some influence so long as the local organization on the one hand and the local management on the other hand has contact with the dispute. But if such a grievance can not be adjusted in this atmosphere, is it not obvious that the best method for obtaining an impartial consideration is to take the case to a technically equipped tribunal entirely unaffected by local prejudice?

The second objection of Mr. Holden is that these national boards will standardize conditions, and that is an objection which lacks seriously any good faith. The answer is that this is precisely what the present Labor Board does and precisely what these boards will not do, because the present Labor Board not only interprets rules but makes rules, thus inducing standardization of rules. The proposed boards only interpret rules. They will operate to standardize the law of railway contracts only to the extent that the courts standardize the law of commercial contracts, but they will leave every road free to make its own contracts to suit local conditions, whereas at the present time if the parties disagree concerning the

terms of a contract the dispute is referred to one national board, which will inevitably be inclined to follow precedent and to establish a standard rather than a local rule.

The third objection of Mr. Holden is that such boards will create invitation to appeal. The answer to this objection is that they can not possibly afford the invitation to appeal that exists under the present law. There will be little invitation to appeal to a bipartisan board except where a party is convinced his contention is just and sound. There is a continual invitation held forth to appeal to a tripartisan board, where the decision rests in the hands of non-experts who may be misled and induced to enter a decision which technicians would generally accept as unsound and unjust.

The fourth objection of Mr. Holden—and these are his four listed objections in his own statement—is that these boards involve unnecessary expense in maintaining and attending upon them.

The answer to this objection is: They can not involve an expense in maintenance or in attendance equal to that of the present Labor Board with its judicially organized machinery and its constant invitation to appeals. A bipartisan board of adjustment will not sit as a court. It will not conduct semijudicial hearings. It will not require a great staff of examiners and clerks. The procedure of such boards as heretofore developed has always been of the simplest, most informal type, conducive to a minimum of expense in time and money. It will not be necessary to prepare the mass of evidence now required to educate laymen in the intricacies of railroad practice when cases are presented to these expert boards, the members of which will know far more about railroad practice than the contestants who appear before them.

The final and apparently chief objection to these boards, offered by Mr. Holden and other representatives of the carriers, is that they establish special privileges for the national organizations, that they will establish the "closed shop," which is an exaggerated appeal to prejudice.

As a preliminary answer, let it be noted that the carriers admit that the train service organizations, particularly the four brotherhoods, represent the vast majority of such employees on the railroads. Yet it is a matter of record, which the carriers can not deny, that these organizations have never sought to obtain "closed-shop" contracts; that they have never inaugurated a movement to establish the "closed shop" on American railroads, although their representation of over 95 per cent of such employees has been an established fact for a generation. So much for this bogy of a closed shop, with which the carriers delight to appeal to prejudice.

The main contention of the carriers, that the provisions for boards of adjustment establish special privileges for the national organizations, is based on three utterly unsound assumptions. The first assumption is that the 20 national organizations supporting this bill alone are granted the right to present nominations to the President. The bill provides that any nationally organized craft can nominate two persons for each position to be filled, of which two only one can be named. If, for example, there are more than seven national organizations of the crafts named in Board No. 1 there can be more than 14 nominees because the provision reads "not less than 14 nominees."

The limitation of nomination to national organizations is a sound one for practical reasons. First, these are national boards provided to meet national needs. Second, it would be impractical to allow any organization, no matter how small in numbers, no matter how local in its membership, to present nominations and thus flood the President with nominations which inevitably he would not consider, as he would naturally select men representative of the larger groups as being more truly representative of the employees as a whole. Third, if local organizations such as company unions do not desire to take their grievances to these boards they can readily avoid doing so by making agreements with managements which will prevent such action. It is a fact to-day, which can not be denied, that the constitutions of company unions such as those on the Pennsylvania system are so drawn as to practically prevent any appeals to the Labor Board. It should be clear that if the agreement between the company union and the company provides that if a decision is not reached in primary conference an appeal shall be taken to a local board whose decision sha'l be final, or whose failure to decide shall be equally final, then all disputes on such railroads will be, in contemplation of the proposed law, decided in conference, and neither party would be required to go to these adjustment boards.

If a local organization of employees desires to carry a dispute to a national board of adjustment the proposed law will give them that right, and they should not be denied it. If the management desires to carry a dispute to a national adjustment board it should have that right. It is rather remarkable that this committee is urged to find the bill objectionable because the managements do not wish to be granted a right, because they do not wish to exercise it. If there is no appropriate adjustment board as claimed in behalf of some of the smaller organizations, then either party can invoke mediation and obtain the aid of the government board of five members as provided.

The second assumption which underlies the opposition to the proposed boards of adjustment is, that if agreements of local unions were to be construed by such a national board the board would be hostile to the contentions of the employees. But the fact is, that these national boards would be engaged in interpretations that would form precedents for interpreting similar rules everywhere. They could not afford to establish bad interpretations any more than a court can afford to set aside a sound principle of contract law because of a particular prejudice of the judge or a particular injustice that will result in a special case.

The third unsound assumption which underlies the greater part of the carriers' objections is that these national boards will make agreements and thereby exclude independent action. There is no foundation for this assumption, in this proposed bill. The boards have no power granted to make agreements or to prevent the making of agreements. They are, therefore, absolutely without any power to influence the actions of company unions or other local organizations in making such agreements as they desire.

Taking up one or two of the main objections, there is a general complaint made by the executives that this bill involves new and partisan legislation. This assertion is absolutely without foundation. It is shown by the letter from Mr. Hines, which has been read

into the record, that in the matter of adjustment boards the provision agreed upon by the conferees of the Senate and House in drafting the transportation act in 1920 specified by name the organizations of employees which would be represented by their own selections on the adjustment boards created in the conference bill, a far more partisan requirement than any now suggests, and Mr. Hines then advised the conference committee "that the entire matter of boards of adjustment be left to the agreement of carriers and the employees instead of being made rigid and inelastic by statute specifications."

It, therefore, appears that after the passage of a bill through the House of Representatives which gave these organizations directly the power to name the labor representatives on boards of adjustment, after the acceptance of such a provision by conferees representing both the Senate and the House, a man who had represented railroad managements, who had been a railroad official for many years, and who in a few months was to become again a representative of railroad management, who at the moment happened to be Federal Director of Railroads, but who must be regarded, with all deference to his fairness, as representing in his opinions, in his mental attitudes, essentially the management point of view, was responsible for reversing a policy practically adopted by Congress and for thereby preventing the establishment of national boards of adjustment which would have granted to the executives of these railroad labor organizations the direct authority to name the labor representatives. These organizations, in the light of that history, now come to Congress and request, not that they be granted any such authority or such special privilege, but that the President of the United States be authorized to name the representatives of the employees and of the employers and that all organizations of national crafts affected shall be given merely the privilege of presenting nominations to the President. Yet this measure, in view of the history which I have recited, is called a new and partisan proposal.

There is another general basis of attack upon the proponents of this bill that really requires a definite answer, and that is in the denial by the carriers that the organizations supporting the bill represent a great majority of railroad employees. The denial is false, and the figures which have been brought in to support this false claim of the carriers are about as dishonest and misleading statistics as have probably ever been presented to a committee of Congress, and that is making a pretty strong assertion.

Mr. Walber sought to detail the number of employees represented by the standard organizations on the eastern and western railroads. He alleged he found a total of 583,638 employees on the eastern and western railroads represented by the organizations supporting the bill and 453,089 employees whom he described as otherwise represented. These figures were supposed to be derived from a compilation of agreements between the railroads and the organizations. Mr. Walber admitted on cross-examination by the committee that the totals did not have any regard for the number of men in the organizations. In other words, they were entirely irrelevant to his statement. They apparently represented in some way the number of men working under agreements which the roads conceded they had with the organizations.

Now, let us refer to just one of the classifications here. He took up the train dispatchers and stated there were 648 train dispatchers only 33 per cent in the eastern territory who had contracts with the railroads. As a matter of fact, on the New York Central lines there are approximately—I took his own line—there are approximately 391 train dispatchers, 337 of whom on that road alone are members of the Train Dispatchers' Association and working under agreements as to rules and rates of pay.

In addition to the New York Central lines, taking the Baltimore & Ohio as a dividing line between the northeast and the southeast, with Chicago as the western terminus, there are a total of 627 train dispatchers with working agreements on those railroads, not counting the Pennsylvania and Erie. The Pennsylvania and the Erie Railroads combined have a total of 611 train dispatchers who have had rules of working conditions decided for them by the Railroad Labor Board, but these carriers are ignoring the decisions of that tribunal in this as well as practically all other respects. A fair illustration of typical railroads on which train dispatchers have working agreements is made by taking into account all railroads who are member roads of the Association of Railway Executives, which organization Mr. Walber represents. Out of 95 of those class I roads, representing a total of 206,830 miles in the United States upon which train dispatchers are employed, 54 roads, mostly the larger systems, representing a total of 147,630 miles, have working agreements with their train dispatchers. That is only one example of his computations.

These figures are prepared by the railroads themselves to suit their own purposes and their utter unreliability may be indicated by a few examples: It was shown before the Labor Board and in the Federal courts that the Pennsylvania Railroad negotiated its shop-craft agreement covering between 35,000 and 70,000 men, as forces are reduced or increased, with so-called "representatives" chosen by a ballot in which less than 3,500 men participated, whereby some 33,000 men were disfranchised. In the words of the Labor Board, "only 10.5 per cent of those employees are represented in these negotiations, and 89.5 per cent are virtually disfranchised."

The Pennsylvania Railroad followed the same system of disfranchising its clerks, so that here again, out of approximately 35,000 men, representatives were selected by approximately 3,000 men. The telegraphers of the Pennsylvania system have been subjected to a similar denial of right of representation.

I shall explain in just a moment the means whereby and the extent to which the railroads have proceeded to prevent honest representation of their employees by representatives of their own choice. It is sufficient at the moment to point out that the figures such as those presented by Mr. Walber are not only utterly unreliable and prove nothing, but amount to a deliberate and willful attempt to deceive this committee as to the representative character of the proponents of this legislation.

The organization supporting this legislation are not paper organizations, not creations of the employers officered by puppets paid by the carriers to dance when they jerk the strings. These organizations are old and well established. They have been formed by the men themselves, democratically organized and democratically

governed (and it is a matter of court record in Philadelphia that the Pennsylvania organizations were formed by the company). They are recognized everywhere among intelligent and well-informed people as a social asset. They have contributed to the good order, comfort, and well-being of the communities in which they have flourished. The officers of these organizations do not impose policies upon the rank and file as the carriers constantly seek to insinuate. They represent the opinions of their membership or they cease to be officers. There is not a railroad president who can claim to voice the opinions of his stockholders with the same certainty and assurance with which these executives can claim to voice the opinions of the members of these organizations.

These executives speak now and have spoken for years for a vast majority of the railway employees. The Interstate Commerce Commission, with no partisan purpose, but merely in making a statement of accepted facts, wrote in Ex parte No. 72, November 1, 1920, "the overwhelming majority of the railroad employees and subordinate officials, stated by those who are in a position to speak with confidence and authority to be more than 90 per cent, are members of or represented through certain organizations of employees." These organizations were then listed, comprising 16 of the 20 organizations now supporting the bill, the only exception being the marine workers organizations which were not under consideration by the commission, and the American Train Dispatchers' Association, which was included in the classification of "subordinate officials."

This statement was repeated by the commission in the same proceeding in its order of April 16, 1921.

Again, the commission repeated its previous statement "that the great mass of railroad employees are members of or represented through the organizations mentioned above."

The present claim of the carriers that these organizations are not representative of "hundreds of thousands" of railway employees is based on the unsupportable claim that the disfranchised and betrayed groups of employees arbitrarily herded into or represented by company unions, as on the Pennsylvania system, are "otherwise represented" than by national organizations. The sad fact is that such groups of employees are not represented at all. They are represented to the same extent that the public is represented by a public official who has betrayed his trust.

I have heretofore referred to the selection of employees' representatives on the Pennsylvania system. It is appropriate in this connection to read into the record the recent decision, No. 2130, of the Labor Board. It will demonstrate, not merely the manner in which great railroad systems ruthlessly violate the law, but also the impotence of the Railroad Labor Board which has been giving publicity to such violations for three years without effect.

I would like to read that opinion in 2130, the opinion of the Railroad Labor Board, into the record. It is a statement by the Railroad Labor Board of the manner in which the Pennsylvania system completely disfranchised its employees and prevented them from electing their own representatives, covering the telegraphers and the shop crafts. If I may be permitted now, I would like to read that into the record:

The elections held by the carrier in 1921 and 1923 were not in accordance with the transportation act, 1920. This congressional enactment recognized

the right of collective bargaining through the instrumentality of representatives of the carrier and representatives of the employees. An essential condition precedent to bargaining through representatives is the right to select those representatives. The statute never contemplated such an absurdity as the carrier naming the representatives of the employees who were to sit on the opposite side of the bargaining table from the management, neither did it contemplate that this anomalous situation might be effectuated by indirect methods which would permit the carrier to forcibly dominate and control the election of the representatives of the employees.

The employees had the right to select their organization, the Order of Railroad Telegraphers to represent them in all negotiations with the carrier, but the carrier by absolute compulsion prevented the exercise of this right.

The carrier assumed charge and control of the employees' election, formulated the ballot and the accompanying instructions over the protest of the employees' representatives and proceeded to hold the election in accordance with its own arbitrary policy. The employees were left no choice but to participate in the election and forego their right to vote for their organization. They knew that if they wrote the name of their organization on the ballots they would be thrown out by the carrier and not counted and that a rump committee would be set up by the carrier to represent the employees, although such committee may have received but a small fraction of the eligible vote. This was what happened to the shop crafts under identical conditions, when approximately 10 per cent of the eligible vote was permitted to name the representatives of the shopmen by throwing out the ballots of all those who voted for the Federated Shop Crafts.

Under the compulsory conditions described, the telegraphic employees therefore adopted the expedient of voting for the committeemen of their organization merely as individuals without organization designation.

Now, the carrier concedes that the committeemen so elected are the authorized representatives of the employees, but ingeniously insists that they can not attack the very elections in which they were chosen.

Under the facts and circumstances of this case, the carrier's contention is unsound, and to sustain it would permit the carrier to profit by its own wrongful conduct and would close to the employees their only avenue of redress.

If the elections were illegally held—and they were—the employees have the right to raise and present the question through their representatives. The representatives of the employees are the committeemen who have made this submission to the board. They are contending, in substance and effect, that, while they are the legal representatives of the employees, they would not be if the carrier had not excluded the name of the Order of Railroad Telegraphers from the ballots. They are alleging that the vast majority of the employees desired to vote for the Order of Railroad Telegraphers and were denied the right by the carrier, and that they, as the committee chosen to represent the employees, are voicing the will of said majority in bringing this dispute to the board. Certainly a protest of such a grave character, affecting the rights of such a large number of employees, can not be strangled by a technicality.

It is manifestly fallacious to say that the employees are estopped from attacking an election because of their participation in it, when such participation was to all intents and purposes compulsory.

As to the election to be held February 8, 1924, no conference and no new dispute was necessary. It is merely another act of the carrier in a series of acts already involved in a pending submission, and the amended submission is a sufficient compliance with the statute.

Next I desire to present a list of company organizations, prepared to show those railroads which, as late as October, 1923, maintained and exerted pressure upon their employees to join these company-controlled organizations.

I should like to read into the record a list of some 20 carriers who are maintaining these shop crafts organizations, merely calling attention to the fact that on all these carriers men are required to join these unions, and the company deducts their dues in many cases. Not to take the time of the committee, I should like to have that read into the record.

(The list referred to is here printed in full, as follows:)

1. Delaware & Hudson.
2. Atlantic Coast Line.

3. Santa Fe: Here the dues of the men who belong are deducted from their pay.
4. Central of Georgia: Employees are required to join.
5. Rock Island: Compulsion on men to join, and dues are deducted from their pay.
6. Jacksonville Terminal: Men are required to join and the company deducts the dues.
7. Missouri, Kansas & Texas: Men are required to become members of the company union, the company deducting their dues.
8. Missouri Pacific: Coercion (such as threat of loss of seniority) is applied to cause men to join. Deduction of dues recently abandoned.
9. Norfolk & Western: Acceptance as an employee makes a man a member of the company union, and the shop is closed against bona fide union men. The company pays the salaries and expenses of the employee representatives.
10. Pullman Co.: Coercion of all sorts exerted to compel all classes of workers to support the Pullman plan.
11. Southern Pacific: Shop employees and others compelled to join the company organization on pain of losing their places. Dues are deducted from pay, quarterly in advance.
12. Chicago & Alton: The company maintains a company union; membership is compulsory, and dues are collected by the company from the pay.
13. Union Pacific: Men are compelled to join the company union, the expenses being paid by dues deducted from the men's pay envelopes.
14 Wabash: Shop men must be members of the company union, which is supported by dues deducted from their pay.
15. Wheeling & Lake Erie: All forms of coercion applied to cause men to join the company union. Dues are deducted by the company.
16. Great Northern: This carrier maintains a company union, which all shop employees and others must join, dues being deducted from pay.
17. Philadelphia & Reading: Carrier refuses to deal with the Order of Railroad Telegraphers, who received a majority vote of the men, and will recognize none but company union officers.
18. Gulf Coast lines: Will only deal with company union, though the Federated Shop Crafts have been recognized by the Labor Board as having a majority.
19. Oregon-Washington Railway & Navigation Co.: Carrier will deal only with its company committeeman, who received much fewer votes, despite pressure applied, than the Brotherhood of Clerks.
20. Pennsylvania system: Already discussed.

Mr. RICHBERG. The company deducts their dues in many cases, and, as a matter of fact, the company is attempting to maintain a closed shop on the railroad except to those who join the company controlled organizations. I call attention to the fact that these are only 20 out of some 200 of Class I carriers.

I think it would be worth while, however, to read a short letter, showing the manner in which the railroads operate, from J. P. Downs, superintendent of shops, Missouri Pacific, dated Sedalia, Mo., September 25, 1923.

DEAR SIR: We have recently reworked the seniority list and find that you have been in the employ of this company a sufficient length of time to establish your seniority, but, to our regret, your name has been omitted from the list by reason of your failure to keep up your dues in the Mechanical Department Association.

We feel that you appreciate your job at this shop to the extent that you would want this seniority as a protection in the event of a reduction in force, and in order that you may be given an opportunity to protect your standing with the association we are giving you this warning to pay your dues and get up to date.

Please see your secretary and make arrangements to pay your dues in full and bring your card to the office so we can protect your seniority. The seniority list will be posted on bulletin boards Monday, October 1, 1923.

J. P. DOWNS, *Superintendent of Shops.*

Mr. RICHBERG. Without taking the time of the committee, I should like to also have read into the record a letter from the Missouri Pacific system by J. W. Murphy, general manager, sent out to the general master mechanic, superintendents, master mechanics, shop superintendents, and all shop foremen of the Missuori Pacific,

by the carriers' general manager, in which he directs them to participate in the meetings of the employees, to watch over them and to keep in close touch with them, and to encourage the men to please them in every way; in other words, to function in with the associations of the employees, and yet the carriers come here and object to the inclusion of subordinate officials when they wish to be included with employees, and claim that that is contrary to good policy on the road, and object to having subordinate officials mix with employees except when they can be used to keep track of them.

(The letter referred to is here printed in full as follows:)

ST. LOUIS, MO., *June 5, 1923.*

GENTLEMEN. The following is the plan for following up and maintaining interest and integrity of the six shop crafts organizations on the Missouri Pacific system.

The policy will be:

1. Encourage present employees not now members to become members of their respective craft association.

2. Explain to and urge upon any new employee or men who went out on strike and returned to work the plan of the association, and the advantages of being in a position to deal with the management without regard to outside influence.

3. Encourage employees now members to continue their memberships and actively participate in the affairs of the association, having in mind the advantages of respective committees dealing direct with the management to get common and mutual relations and results.

To accomplish the above and maintain interest in the association, please arrange for superintendents, shop superintendents, and master mechanics and their subordinate officers to keep in close touch with chairmen, committeemen, other association officers, and the men themselves. Questions for adjustment, working conditions, pertinent detail subjects, etc., should be discussed. The men should be encouraged to keep in close touch with their association officers on subjects being handled. * * *

The committeemen should call meetings of the men regularly, and the men should be encouraged to attend them. The railroad company will furnish quarters for the meetings; they must be suitable and convenient for the purpose.

Master mechanics will assist chairmen in maintaining lists of employees of each craft who are and are not members of the association; these lists to be used as occasion requires in building up membership in the association. As a means of assistance, application for membership in the Missouri Pacific Mechanical Department Association will be tendered men to be hired at the same time they fill out regular application blank for employment by the railroad. The employing officer should make plain to the applicant that *it is not compulsory* that he join the association, but that it is in his best interests and that employees of the Missouri Pacific Railroad eligible for membership in the Missouri Pacific Mechanical Department Association should identify themselves with the association and become active members. The employing office should not collect the initiation fees or attend to any of the financial arrangements but should turn the application for membership over to the local committeeman of the craft, who will attend to the collection of fees, issuance of membership cards, etc.

Shop superintendents, master mechanics, and their subordinate officers will talk with committeemen relative to association work and progress being made at least once a week, and more often if necessary, assisting their association work in any way they can. * * *

The division and local mechanical department *supervisory officers will arrange to be invited to attend association meetings* of the men whom they supervise and should avail themselves of the opportunity that they may participate to *develop interests and mutual relation for the benefit of both the men and the company.* Likewise, superintendents, division engineers, trainmasters, roadmasters, B. &. B. supervisors, traveling engineers, and fuel supervisors *will interest themselves that they may attend meetings* to discuss subjects with the men to further mutual interests. * * *

Superintendents will talk regularly to master mechanics, foremen, committeemen, and other craftsmen, with a view to keeping up interest in this association, knowing the number of members, and those eligible for membership, and ascertain *the reason eligible employees are not members of the association.*

It is incumbent upon your entire staff, including general master mechanics, district engineers, and others to *become acquainted with the committeemen* of the various shop crafts, that they may be acquainted with and be *helpful in every possible manner in the affairs and progress of these most deserving men as well as their association.*

General officers will make it a point to get in touch with chairmen and other committeemen in a general way on their visit to shops.

Am also requesting Vice Presidents White and Perkins, General Auditor Johnson, Chief Engineer Hadley, General Purchasing Agent Hopkins, and Supply Agent Krampf to assist by having their local officers become acquainted with committeemen when opportunity presents itself and to have their line and local representatives do likewise. * * *

Am sure everyone will take hold of this work in a vigorous manner, and shall be pleased to have you give it such attention and direction with our people as will bring forth the results and cordial relations with the mechanical department employees we are seeking to further develop and maintain.

Yours truly,

J. W. MURPHY, *General Manager.*

(Our italics.)

Mr. RICHBERG. Now, just a word as to the contracting-out scandal, because Mr. Crowley testified in behalf of the New York Central to the effect that this railroad only violated decisions of the Labor Board in the way of questioning the jurisdiction of the board, it seems necessary to explain to the committee the utter insincerity of such a claim. Mr. Crowley stated that the railroad's refusal to obey the Labor Board is now before the Federal court in Illinois and when the court renders a decision, he stated the New York Central lines will obey the court. I happened to be engaged as one of the attorneys in that case, and I would like to add to his statement.

He did not tell you that about a year ago Judge Carpenter stated in open court that in his judgment the Supreme Court of the United States in the Pennsylvania case had decided that his court had no jurisdiction to review the decisions of the Labor Board. He did not tell that the attorneys for the railroad had adopted tactics of delay, whereby, although as an attorney in that case I have sought for a year to get it argued and submitted to the court, we have not had a hearing although briefs were filed on both sides more than a year ago and the judge plainly indicated, after the Pennsylvania decision, that he thought the court had no jurisdiction to rule on the legal questions which Mr. Crowley says they desire to get decided. The New York Central has simply made a farcical use of judicial proceedings by its conduct in this matter.

In January, 1921—that is over three years ago—it began contracting-out shop work. In May, 1922, the Labor Board ruled that the road was acting in violation of the transportation act. Early in 1923 the Federal court was asked to set aside the order of the Railroad Labor Board, an action which it is clear the court has no authority to take in view of the decision of the United States Supreme Court.

Now in 1924 we have the situation that for three years the employees have suffered under violations of law without redress, have had their wages reduced and working conditions arbitrarily changed, and the representative of the railroad comes before this committee and asserts that the road is only seeking to have decided a question of jurisdiction.

I should like to read into the record a portion of the decision of the Labor Board upon this question, a decision having no enforceability except through alleged public opinion.

Without taking the time of the committee, I should ask to read into the record a part of the decision 982, merely calling attention to these one or two sentences in which the Labor Board stated:

There need be no misunderstanding of this situation. The contractor performs only one useful function in this operation—he is the medium or channel through which the piece-work system was substituted for the lawfully established wage scale. The contractor's compensation for this is 5 per cent of the amount of the pay roll, and the rate of pay is carefully limited by the piece-work provisions in the contract. The contractor takes absolutely no risk.

The board has exposed time and time again the fact that these contracts are simply means of evading Labor Board decisions, whereby an entire shop is contracted out, and then the contractor claims, "Now, we are not affected by the Labor Board ruling."

(The matter referred to is here printed in full, as follows:)

No more important dispute has ever come before the labor Board for adjudication. It goes to the vitals of the transportation act. If the carrier can legally do the thing which has been done under these contracts, then the entire transportation act can be nullified and the will of the Congress of the United States set at naught. If one class of employees can thus be taken from under the application of the act, there is no sound reason why each and every railroad employee in the United States can not be given like treatment. One class of employment lends itself as readily to this method as another. Contracts have been recently entered into be various carriers, purporting to turn over to so-called independent contractors the work of the following classes of employees:

(1) The six shop crafts, (2) the maintenance of way employees, (3) certain employees embraced in the clerks' organization, (4) the firemen and oilers, (5) the hostlers, embraced in the engine service, and (6) signal department employees.

When Congress in this act speaks of railroad employees, it undoubtedly contemplates those engaged in the customary work directly contributory to the operation of the railroads. It is absurd to say that carriers and their employees would not be permitted to interrupt commerce by labor controversies unless the operation of the roads was turned over to contractors, in which event the so-called contractors and the railway workers might engage in industrial warfare ad libitum.

In other words, Congress did not say to the carriers, "you must not precipitate trouble by the adoption of arbitrary measures with your employees, but you may delegate to a contractor the power to violate and annul all your agreements, and if it happens to result in an interruption to traffic, the public will be deprived of such protection as the transportation act would give." As a matter of fact, that is practically the sole effect of the contracts involved in this case.

A strike by the employees of a contractor or contractor agent of a carrier would as effectually result in an interruption to traffic as if the men were the direct employees of the carrier.

To the outside observer, and so far as the public is concerned, the car repair department of this carrier has undergone no real change. The carrier's own shops along its own lines are maintaining the carrier's car equipment exactly as they did before these contracts were made. Very largely the carrier's same foremen and inspectors are in charge and its same careful supervision is being exercised.

The carrier is furnishing all the necessary material from its own stores and supp y houses as it did before. The employees of the contractor are riding the carrier's shop train gratis from their homes to their work just as they did before, except that no passes are issued to them for fear of violating the law. When a wreck occurs anywhere on the carrier's property, the employees of the contractor go out and look after it. The employees of the contractor are required to familiarize themselves with the operating rules of the railroad pertaining to safety. The carrier is carrying accident insurance on the contracting employees. The carrier's tools, machinery, and equipment are all being used in the operation, and the contractor had none of his own. The contractor has no leasehold on the plant or shops of the carrier. The carrier says it is free to do any of its work anywhere else, as it sees fit. On 60 days' notice, either party can terminate the contract. The contractor does not even have control over the wages paid the employees. The contract contains the carrier's ready-made schedule, which the contractor must use.

Mr. RICHBERG. We have the spectacle of two of the greatest railroad systems in the country—these are not minor railroads—the Pennsylvania Railroad and the New York Central Lines, defying the Railroad Labor Board for years in matters affecting the lives and happiness of thousands of employees and there has been no effective public support of the employees. Yet when the shopmen on the Pennsylvania system struck against that railroad, solely to compel it to comply with the law, the fact was not generally understood.

I pause for a moment to show that the shopmen did not strike on the Pennsylvania system on any other basis and have repeatedly offered to return to work on that system if the men are granted the right to conference under the transportation act.

When the shopmen on the Pennsylvania system struck against that railroad, solely to compel it to comply with the law, a fact not generally understood, the whole force of public opinion was mobilized against the shopmen on the Pennsylvania system just as viciously and unfairly as against the shopmen employed by other railroads. No wonder the carriers desire to preserve an institution which only functions for the benefit of one party. No wonder they desire to preserve a public body which declares employees who exercise their legal rights to be outlaws, but permits railroads which defy its orders to continue to utilize its authority whenever it is to the railroads' interest.

Protest has been made repeatedly, Mr. Chairman, against railroads being permitted to come before the Labor Board when they were violating the board's orders and to seek further aid from the board after the action of the board which declared the employees who went on strike as their only method of objecting to the proceeding, to be practically outlawed from appearing before the board.

Now, I take up finally the real basis for the carriers' opposition. We ought to have a real understanding of the underlying questions, not the fictitious questions raised on the surface of things. The real basis of this opposition lies in the desire of the roads to maintain an instrument for favorable propaganda at the expense of the public treasury. The organized railway employees have repudiated the Labor Board. They have no confidence in it. The company unions do not utilize the board. In most instances their masters will not permit them to. The railroads desire to have the Labor Board maintained as an instrument for the deflation of labor, as a means for spreading railroad propaganda to this end. The final argument of the carriers, when it is analyzed, is amazing in its lack of intellectual integrity and its lack of common morality.

It has been extensively argued before this committee that the railroads, under the present transportation act, can agree with their employees upon increased wages and then get the Labor Board to suspend such agreements. If the Labor Board had any such power it would be an absolutely unconstitutional grant of power as I shall demonstrate in a moment. But inasmuch as the Supreme Court has held that the decisions of the Labor Board have no legal force, it is quite clear that the order of the board suspending an agreement between employer and employee has absolutely no legal force, but simply provides an excuse to a management to exhibit bad faith and repudiate its contract.

Observe the dishonest spectacle of these railroad executives asserting that the Labor Board will suspend a wage increase, which necessarily means that they expect the railroad members and the so-called public members to unite to authorize the railroad to repudiate its bargain. In pioneer days a gentleman indulging in such conduct would have been carried out of a decent community riding on a rail.

Mr. Holden states that Congress did not intend to leave the parties to "uncontrolled agreement," evidently meaning that Congress undertook to suspend the constitutional guarantee of liberty of contract in connection with contracts between railroad managements and their employees. Just where the authority for such an exercise of legislative power is to be found is not quite clear. The United States Supreme Court went the farthest in sustaining the authority of Congress to regulate contractual relations between employers and employees in the railroad industry in Wilson *v.* New (243 U. S. 333), and in that case the court held, page 347—a case arising under the Adamson law—and I submit this language of the court is more important than twenty pages of opposition to it by railroads' representatives—

The court held:

> It is also equally true that as the right to fix, by agreement, between the carrier and its employees, a standard of wages to control their relations, is primarily private, the establishment and giving effect to such an agreed on standard is not subject to be controlled or to be prevented by public authority.

The court then went on to state:

> Conceding * * * the power between the parties, employers, and employees, to agree as to a standard of wages free from legislative interference, that right in no way affects the law-making power to protect the public right and create a standard of wages resulting from a dispute as to wages and a failure thereby to establish by consent a standard.

To the same effect as supporting the right of private contract, even in conflict with the provisions of the Adamson Law, is the case of the Fort Smith & Western Railway Co. *v.* Mills (253 U. S. 206). In other words, what the Supreme Court has said is that the farthest Congress can go is that if employers and employees are unable to reach an agreement, the public may, in the public interest, temporarily substitute some public standard. But the Supreme Court has definitely affirmed the unqualified constitutional right of the parties to agree as a matter of private contract.

Since, however, the carriers seem desirous that Congress should exercise power, if any way can be found, to evade the constitution, to prevent carriers and employees from contracting freely as to wages, we might suggest that this legislative power should first be tried out in regard to contracts for materials and supplies. According to the Railway Age, the expenses of the railroads for materials and supplies increased from $1,037,000,000 in 1916 to $2,167,000,000 in 1920. To take one item alone, fuel costs increased from $250,544,862 to $672,891,964, although apparently the quantity of fuel consumption remained the same.

During this period compensation of employees continued to be approximately the same per cent of operating expenses. Following 1920, total compensation to employees, as shown by the figures of the Interstate Commerce Commission, was reduced over $1,000,000,000, whereas prices for materials and supplies only declined $375,000,000.

In other words, while the railroads were bringing about a reduction of 28 per cent in payment to employees, they were only able to bring about a reduction of 18 per cent in payment for materials and supplies. We are informed that the labor organizations seek to maintain existing wages, but it is quite obvious from the figures set forth that these labor organizations are not nearly so effective as the organizations of capital in preventing reductions of labor costs as compared with material costs.

A most potent means for bringing about drastic reductions in wages has been found in the Labor Board, a body powerless to aid the employees against the will of the railroads, but able to marshal public sentiment against the employees for the benefit of the railroads.

Through the agency of this board the railroads were enabled to reduce wages $400,000,000 in one stroke, according to Mr. Holden, and this reduction was interpreted by Mr. Willard to be the largest reduction in wages of the workers connected with any particular industry, without violent protests, that has ever occurred. Looking now to the future, the roads desire this agency continued and desire its power so interpreted that, even if they agree with employees upon wage increases, this board may furnish them with a legal pretense for repudiating their contracts.

If this is to be the law, how long are the roads to be permitted to contract with affiliated coal companies for coal, with the affiilated steel corporation for steel, and with affiliated supply companies, in which railroad officials hold securities, without any interference by the legislative power, the legislative power only being exerted to control contracts with employees? Let us suggest that before Congress begins to attempt to prevent honest bargaining for wages and working conditions, Congress might well begin to attempt to stop dishonest bargaining for materials and supplies.

Mr. Holden says the transportation act for the first time establishes a relationship between wage expenses and revenue. Yet in fixing the standards for just and reasonable wages not a word was written in the act setting up the ability of the carrier to pay as one of the standards. But the Labor Board, by the clear implications of its decisions reducing wages, based those decisions largely on the alleged inability of the carriers to pay higher wages. Let it be asked, does "the ability of the carrier to pay" induce the coal operators to reduce their profits, or the steel corporation to reduce its dividends? The market price must be paid for all things that the railroad buys. The elusive law of supply and demand is supposed to fix the price of things. But the price of labor is to be arbitrarily fixed and the railroads' ability to pay is to be set up as the standard for fixing the wages of men, according to the latest railroad slogan. On the other hand the prosperous Burlington will not offer to pay more than the bankrupt Chicago & Alton. And, let it be asked, if a ton of coal is worth the same on each road, on what theory is the service of an engineer worth less to one than to the other? On what theory of law and justice has Congress set up a tribunal to legalize breach of contract to stop the payment of even the market price for lives devoted to railroad service, in order to insure that the market price for dollars shall be paid first?

In 1894 three Federal judges held "the wages of the men must not be reduced below a just and reasonable compensation for their services. They must be paid fair wages, although no dividends are paid on the stock and no interest paid on the bonds." This position was sustained in every arbitration of railroad wages down to 1921, by such arbitrators as Federal Judges Caldwell, Riner, Woolson, Sheppard, Maxey, and Arbitrators Charles R. Van Hise, Oscar S. Straus, Frederick N. Judson, Albert Shaw, Otto Eidlitz, Daniel Willard, Seth Low, John H. Finley, W. W. Atterbury, A. H. Smith, James J. Storrow, Franklin K. Lane, Charles C. McChord, William Howard Taft, and many others.

This line of authority was summed up by Professor Taussig, in a statement summing up what I have stated, which I would ask to read into the record.

(The statement referred to is here printed in full, as follows:)

Practically the same point has been under consideration in various arbitrations between the great railway systems and their employees. Here, too, statements were made by the railways that they were not in a financial position to meet the higher wages, or at least the weaker among them were not. In these cases also the arbitrators decided that the current financial position of the railways was immaterial. The men were entitled to an award of fair wages. The companies had shouldered the risks of investment and also the risks of public regulation, and their owners, not their employees, must submit to any losses, whether these were due to bad management, misfortune, scant traffic, or public regulation.

Mr. RICHBERG. The Railroad Labor Board in 1921 repudiated this doctrine, as shown by its language in Decision 147, an excerpt from which I would like to read into the record:

It is only patriotic common sense and justice that every citizen, including the railway employees, should cooperate in a cordial spirit, should bear and forbear, until the carriers are back on their feet. When this accomplishment is safely under way it will then be possible for the Railroad Labor Board to give increased consideration to all the intricate details incident to the scientific adjustment of the living and saving wage, with enlarged freedom from the obligations of the "relevant circumstances" of the abnormal period, which is now approaching its end. * * * It is idle to contend that labor can be completely freed from the economic laws which likewise affect the earnings of capital. * * * In this connection it must be remembered that the carriers are at liberty to pay to any class of employees a higher wage than that fixed by this board whenever the so-called labor market compels, provided, as the act states, that such wage does not result in increased rates to the public.

The railroads have presented the perfect reason for wiping Title III of the transportation act out of the statute books without further delay. Under their construction and with their proposed use of a hypocritical pretense of organizing public opinion through the operations of the Labor Board, this law is revealed to-day as an instrument of bad faith, a means for repudiating constitutional guarantees an affront to our democracy.

Mr. Chairman, I regret that it has seemed impossible to avoid taking so much time to reply to so many detailed, and I think insincere objections to this act, but I would like to say in conclusion that outside of any questions of the committee, I am entirely ready and willing to submit to any questions that may be asked on the part of the carriers, if that meets the approval of the committee, because I challenge the carriers in this case to sustain the validity and soundness of the objections which they have raised to the bill in view of the real provisions of the bill. It would perhaps be better—I am

entirely ready to meet the committee's wishes—it might be better, and I might suggest, that Mr. Robertson should make his statement first, because Mr. Robertson is covering the practical fact elements. I have endeavored almost exclusively to cover the objections made to the technique of this law, and Mr. Richardson has to add to that material concerning the practical facts behind the law.

The CHAIRMAN. The committee will now take a recess until 1.30.

(Accordingly, at 12 o'clock m., the committee took a recess until 1.30 o'clock p. m. of the same day.)

AFTER RECESS

The subcommittee met, pursuant to recess, at 1.30 o'clock p. m. Senator James Couzens presiding.

The CHAIRMAN. You may proceed, Mr. Robertson.

STATEMENT OF D. B. ROBERTSON, PRESIDENT BROTHERHOOD OF LOCOMOTIVE FIREMEN AND ENGINEMEN AND CHAIRMAN OF SUBCOMMITTEE OF RAILWAY LABOR ORGANIZATIONS SUPPORTING THE HOWELL-BARKLEY BILL IN REPLY TO THE CARRIERS

Mr. ROBERTSON. I. Sincerity of purpose of railway labor organizations and their concern for public interest.

Mr. Holden, chief spokesman for the carriers, has stated that the pending bill has resulted from the work of the railroad labor organizations "without conference or public discussion with either railroad managements or with the public. It is, therefore, obviously a partisan measure."

This is a surprising statement, particularly to come from Mr. Holden. The fact is that Mr. Holden must be quite familiar with the efforts made by the railway labor organizations to secure consideration and support of this measure by representatives of the public and to encourage consideration of it by railroad managements.

This bill was presented for the consideration of Secretary of Commerce Hoover approximately four months ago. Prior to that time the President of the United States had informed the executives of the labor organizations that Mr. Hoover would represent him in consideration of transportation questions. After ample time for consideration of the bill, conferences were held with Mr. Hoover and the proposals discussed at considerable length and it is worthy of note that only a few suggestions, themselves not antagonistic to the present provisions of the bill, were offered by Mr. Hoover.

Subsequently, and prior to the introduction of this bill, a conference on transportation was held in Washington under the auspices of the United States Chamber of Commerce early in January, 1924, attended by Mr. Hoover, by representatives of some of the railway labor organizations, and by representatives of railroad managements, at which changes in the labor provisions of the transportation act were considerably discussed.

At this conference Mr. Charles Rippin, president of the National Industrial Traffic League advocated repeal of the Labor Board provisions of the transportation act, and Dr. Emery T. Johnson and Mr. Henry Bruere made suggestions for a different machinery for handling labor disputes.

Not only did the carriers have, during this period, ample knowledge of the desires of the employees and of the general character and, presumably, the specific details of the legislation they desired, but later Mr. Hoover, himself, endeavored to bring about conferences between the executives of the carriers and of the labor organizations through Mr. Holden without success.

There have been months of public discussion and conferences of one sort and another regarding not only the matters covered by the Howell-Barkley bill but regarding the exact terms of the proposed legislation, and under these circumstances for the carriers to hold aloof from any effort to cooperate with the labor organizations in presenting a program and to assert that this measure was formulated without conferences or public discussion with railroad managements or the public is to create an entirely unfair impression.

We must submit to the committee that the present attitude of the railroads is consistent with their traditional antagonism to every effort to pass constructive legislation.

Not to review the entire course of railroad legislation, let me merely refer to the long struggle which preceded the enactment of the hours of service law against which, despite the obviously public interest and the injustice and hardship imposed upon railroad employees by excessive hours of service, the railroads presented a continuous and unfair opposition.

Let me quote from the conditions shown in the Congressional Record of the Forty-ninth Congress, second session, at page 810:

> Collision. Trainman was asleep; 20 hours duty.
> Collision. Engineer and conductor running train at high speed in block entered under caution signal; 34 hours on duty.
> Collision. Brakeman sent back to flag train and sat down and fell asleep; 23 hours on duty.
> Collision. Failure to protect rear end of train; 30 hours on duty.
> Collision. Engineer was asleep; 48 hours on duty.

Instances of the results of excessive hours of service could be multiplied indefinitely, of injury to the public and intolerable hardship to employees and yet, for years the railroads insisted that a limitation upon hours of service would disorganize their operation, would make it impossible for them to render that efficient public service that they are always willing to talk about but which they are unwilling to adopt progressive constructive measures to insure.

There was one measure affecting the railroads passed with their united support and under pressure of so-called public opinion which they developed. That was the transportation act of 1920, and it will be helpful now in showing what sort of public opinion the railroads desire to have aroused to demonstrate the manner in which public opinion was created for the support of that act.

II. Railroad propaganda.

It has been asserted by counsel for the carriers in the present hearings that they did not procure the adoption of the transportation act. Mr. Thom says in regard to the transportation act:

> We had nothing to do with it. It was the creation of a committee of Congress and the Director General of Railroads, on which there were no hearings and in which we did not participate.

Mr. THOM. I must protest against that statement, Mr. Chairman. What I said related to the labor provision of the act and not to the transportation act.

The CHAIRMAN. I think, as I remember, that is correct.

Mr. RICHBERG. That is a correct qualification.

Mr. ROBERTSON. Yet it is a fact which the carriers will not be permitted to deny that long prior to the passage of the transportation act they deliberately inaugurated, developed, and successfully carried out a program to obtain the enactment by Congress of legislation to return the railroads to private control under terms and conditions which would be satisfactory to the private managements.

I have here and desire to read into the record a special bulletin just issued by the People's Legislative Service and prepared by Mr. Basil M. Manly, the director of that service, who, by the way, served with the present Chief Justice William Howard Taft as one of the two joint chairmen of the War Labor Board. This bulletin presents documentary evidence of the truth of the assertions which I have just made and reads as follows. Mr. Chairman, I will not attempt to burden the committee by reading the full contents of the bulletin; I will just read excerpts and ask it be included in the record in its entirety, if it is permissible. It is entitled, "Special bulletin, railroad propaganda; what it costs and who pays the bills."

It reads as follows:

Secret documents have just come to light which show how huge funds were raised and spent to secure the passage of the Esch-Cummins railroad law in 1920.

This information is of particular interest at the present time, because the Gooding resolution (S. Res. 124), providing for a complete investigation of railroad propaganda at the present time, is now pending before the Senate.

These documents relate to a single appropriation of $1,000,000 expended through the Association of Railway Executives during the latter part of 1919 and the early part of 1920, "to bring to bear on Congress the strong pressure of public opinion throughout the country to speed up railroad legislation and put on the statute books a sound law that will protect and encourage the transportation industry."

These documents are of special interest because they expose for the first time the far-reaching purposes of the railroads' huge propaganda campaign. This revelation occurs in two short paragraphs of the report of the standing committee of the Association of Railway Executives.

This report states:

"The intelligent use of advertising space, especially in the newspapers, has come to be the accepted and approved method of crystallizing American public opinion on any great national issue."

The report continues:

"We also recommend that the national advertising thus begun by the rail ways as a whole be continued as a permanent program with the return to private operation. We believe that such a settled policy of continuous good will advertising for the general education of the public on railroad problems will be a certain means of retaining public good will, of working out the perplexing problems that will arise under private operation, and of insuring the continuance of private operation in the future."

The first document consists of a statement read by T. DeWitt Cuyler, chairman of the Association of Railway Executives, at a meeting of the standing committee of that association on October 14, 1919. It should be noted that in addition to being chairman of the Association of Railway Executives and director in many railroad corporations, Mr. Cuyler was also director in the following banks and insurance companies: Bankers' Trust Co., Commercial Trust Co. (counsel and chairman of the board), Equitable Life Assurance Society, Equitable Trust Co., Girard Trust Co., Guarantee Co. of North America, Guaranty Trust Co. of New York, Metropolitan Trust Co., Pennsylvania Co. for Insurance on Lives and Granting Annuities, Pennsylvania Fire Insurance Co., Philadelphia Savings Fund Society, Subway & Realty Co., and United States Mortgage & Trust Co.

It is significant that although Mr. Cuyler was chairman of the Association of Railway Executives, he had never had any practical railroad operating experience, but held this high position as representative of the bankers and financiers that control the transportation industry.

Mr. Cuyler's report is as follows:

DOCUMENT No. 1

STATEMENT READ BY MR. CUYLER ON THE SUBJECT OF ADVERTISING AT THE MEETING OF THE STANDING COMMITTEE, OCTOBER 14

At the suggestion of the chairman a meeting was held last Tuesday for the purpose of discussing the general publicity policy of the association in view of the legislative situation.

Attending the meeting were, in addition to Mr. Fayant and the members of the staff, Mr. Dunn, of the Railway Age; Mr. Sisson, of the Guaranty Trust, formerly assistant to the chairman of this association; and Mr. Ivy Lee, formerly assistant to the president of the Pennsylvania Railroad.

It was the consensus of opinion of the meeting that the Association of Railway Executives should now go before the country in an intensive advertising campaign to state the railroad's case to the people.

At the suggestion of the chairman, a formal report on the subject has been prepared by Mr. Fayant, Mr. Dunn, Mr. Sisson, and Mr. Lee. The report is as follows:

RECOMMENDATIONS AS TO AN IMMEDIATE CAMPAIGN OF NATIONAL ADVERTISING BY THE ASSOCIATION OF RAILWAY EXECUTIVES

The time has now arrived when intensive effort must be made to bring to bear on Congress the strong pressure of public opinion throughout the country to speed up railroad legislation and put on the statute books a sound law that will protect and encourage the transportation industry.

There can be no doubt that the vast majority of the people of this country want to see the railroads returned now to private management under liberal legislation that will enable the railroads to continue doing their full part in upbuilding the country. The country wants to see a good job done in Congress and Congress is plainly anxious to do a good job.

What is needed now is definitely to crystallize public opinion.

There is only one way to do this and that is on the foundation of national advertising that will reach into every nook and corner of the country.

The intelligent use of advertising space, especially in the newspapers, has come to be the accepted and approved method of crystallizing American public opinion on any great national issue.

The long struggle of railroads for national legislation to insure the future solvency and prosperity of the carriers is about to be won, but to make sure that the fight will be won a direct appeal to the country is now vitally necessary.

We therefore unhesitatingly recommend that the Association of Railway Executives authorize the expenditure for national advertising detailed in the attached exhibit.

We also recommend that the national advertising thus begun by the railways as a whole be continued as a permanent program with the return to private operation. We believe that such a settled policy of continuous good will advertising for the general education of the public on railroad problems will be a certain means of retaining public good will, of working out the perplexing problems that will arise under private operation, and of insuring the continuance of private operation in the future.

The daily newspapers of this country, for example, have a total circulation of 30,000,000. One column of space in every one of these papers can be purchased for less than $25,000.

To spend too large an amount on such a campaign as this would be a waste of money, but not to spend enough would be an even greater waste, because the desired result would not be obtained.

We recommend the authorization of a total expenditure of $1,000,000.

In the tentative estimates attached to this memorandum, we have included as publications to be used in this campaign.

First, all English daily newspapers. This covers 2,300 publications, reaching from the great metropolitan dailies to the smallest dailies in the interior, with a total circulation of 30,000,000 copies.

Second, a selected list of country weekly newspapers, reaching the rural communities in every congressional district.

Third, a selected list of the best agricultural journals, by means of which we will reach the great body of farmers, especially those that do not happen to be reached by the daily and weekly newspapers.

Fourth, a selected list of the leading national journals of opinion, reaching the great body of the most intelligent and most influential people of the country.

The copy to be used in advertising, the typographical form in which it is to be presented, the frequency of publication, and other similar details of the campaign, would of course be determined by a conference between the publicity staff of the association and advertising experts, and all these details would be subject to the approval of the association or such committee of the association as is delegated to supervise this work.

Estimate on national advertising campaign for the Association of Railway Executives

I. Daily newspapers (in English). A series of say, 12 advertisements in every daily newspaper (a total of 2,300) to be published every week, from the middle of November to the end of January. Each advertisement to be 3 columns wide and 12 inches deep:	
Cost of each advertisement	$35, 280
Cost of series of 12	423, 360
Reserve for additional space in daily newspapers, should the need arise	70, 560
Total for daily newspapers	493, 920
II. Country weekly newspapers. A series of say, 8 advertisements, each 3 columns wide and 10 inches deep, to be published from the middle of November to the middle of January in all country weeklies, of 1,000 circulation, a total of 5,800 weekly newspapers:	
Cost of each advertisement, including manufacture and distribution of plates, etc	40, 800
Cost of series of six	244, 800
Reserve for additional space in country weeklies, if needed	40, 800
Total for country newspapers	285, 600
III. Leading agricultural journals. A series of 8 advertisements, each 8 inches on 2 columns, in 30 of the leading farm journals, covering the entire country:	
Cost of each advertisement	4, 000
Cost of series of eight	32, 000
Reserve for additional periodicals	8, 000
Total for farm papers	40, 000
IV. National journals of opinion. A series of 6 page advertisements in the following periodicals: Colliers, Literary Digest, Leslie's, Outlook, Independent, New Republic:	
Cost of each advertisement	8, 000
Cost of series	48, 000
Reserve for additional periodicals	8, 000
Total for national periodicals	56, 000
V. Cost of plates, mats, drawings, etc., for daily newspapers and the periodicals	67, 000
VI. Collateral publicity	57, 480
Total appropriation	1, 000, 000

HOW THE MONEY WAS RAISED

This million dollar advertising appropriation was raised by direct assessment on the railroads of the country. As is shown by Document No. 2, it was part of the seventh assessment, amounting to $1,600,000, levied by the Association of Railway Executives.

DOCUMENT No. 2

(Confidential)

ITEMS IN PROPOSED (SEVENTH) ASSESSMENT

1. Advertising and publicity in connection with pending legislation and the return of the roads to private operation (see special report)	$1, 000, 000
2. Bureau of Railway Economics (1920)	90, 000
3. Railway Corporate Engineers Association (1920)	10, 000
4. Railroad Corporate Accounting Conference (1920)	10, 000
5. Presidents' conference committee on Federal valuation (1920)	200, 000
6. Association of Railway Executives for general and legal expenses (1920)	290, 000
Total	1, 600, 000

"Basis of assessment to be the 'standard return.' Where no contract has been executed, the figure certified by the Interstate Commerce Commission to be used.

"Rate of assessment to be $2 per $1,000 of 'standard return.' If the presidents' conference committee on Federal valuation be not affiliated with the association, then $200,000 may be omitted, and the rate reduced to $1.75 per $1,000 of 'standard return.'

"Assessment to be payable one-half by November 1, 1919, the third quarter by February 1, 1920, and the fourth quarter by May 1, 1920. It is necessary to call for the first half immediately, as it is proposed to spend the appropriation for advertising and special publicity immediately."

That this assessment was actually levied and paid by the railroads of the United States is shown by the following memorandum, taken from the books of the Chicago, Milwaukee & St. Paul Railway Co. It should be noted that this assessment was not charged on the books of the company to advertising or publicity expenses, but was completely concealed by hiding it under the general head of corporation organization expenses as "other expenses."

DOCUMENT No. 3

Memorandum of assessments levied by the Association of Railway Executives on the Chicago, Milwaukee & St. Paul Railway Co. during the year ended December 31, 1919.

ASSESSMENT NO. 6

Date	Voucher No.	Department No.	Month's account	Due	Amount
Feb. 25, 1919	C-717	203	February	On or before Mar. 1, 1919	$4, 011. 59
June 4, 1919	C-1026	322	April	On or before July 1, 1919	4, 011. 58
Total (at rate of 7 cents per thousand dollars of gross operating revenues for the calendar year 1919).					8, 023. 17

ASSESSMENT NO. 7

Nov. 6, 1919	1610	481	October	Immediately	$27, 946. 77
				On or before Feb. 1, 1920	13, 973. 39
				On or before May 1, 1920	13, 973. 38
Total (at rate of $2 per thousand dollars of "standard return").					55, 893. 54

Total assessment No. 6	$8, 023. 17
Total assessment No. 7	55, 893. 54
Total of assessments No. 6 and No. 7	63, 916. 71
Amount paid in 1919	35, 969. 94
Amount due in 1920	27, 946. 77

(In pencil:) Corporation organization expenses, account No. 460, "Other expenses."

The fact that these assessments for propaganda to influence legislation were charged against operating expense is of peculiar interest to the American people, because by this device they are made to pay in freight and passenger rates for the cost of passing legislation inimical to their interests.

It should also be noted that the million dollars expended on propaganda by the Association of Railway Executives was only a part of the total amount used to pass the Esch-Cummins law. Other railroad associations active in securing the passage of the Esch-Cummins Act were the American Railway Association, the American Short Line Railroad Association, and the National Association of Owners of Railway Securities. The individual railroads were also active, as well as the banks, trust companies, and insurance companies, the United States Chamber of Commerce, and numerous other affiliated corporations and organizations.

The American people have a right to know what the railroads have spent and are now spending for propaganda to influence legislation.

This propaganda is paid for with the people's money. It is not paid by the railroad stockholders and bondholders, in whose interest it is conducted, but is charged against operating expenses and thus increases the freight and passenger rates which the people must pay.

I may add my personal testimony to the documentary evidence just presented.

In August, 1922, when representatives of the brotherhoods were seeking in conference with representatives of the railway executives to arrive at a settlement of the shopmen's strike, Mr. T. DeWitt Cuyler, at that time chairman of the Association of Railway Executives, stated freely in the presence of many executives of the carriers and the labor organizations that the railroads had spent some $3,000,000 trying to get the legislation they desired with respect to the return and operation of the railroads under private control.

The railroads may claim that they were not entirely satisfied with the transportation act. I have no doubt they would have preferred the act to include a drastic antistrike provision, but their evidence before this committee proves clearly that the act in the main is satisfactory to them.

It is, perhaps, unnecessary to go further in demonstrating to this committee what the railroads mean when they talk about public opinion. It is very evident that they mean a so-called public opinion which they have created by propaganda whereby friendly and affiliated interests and newspapers deluge Congress with memorials and fill the newspapers with advertisements, expressing railroad arguments either to let the railroads alone or to grant them further legislative aid in advancing their private interests.

III. The Labor Board.

Having secured the establishment of the Labor Board and having proved to themselves that it can be made to operate to their general satisfaction as a mouthpiece of public opinion which only bark at them and bite only the employees, the railroads now demand that the existence of this helpful body shall be preserved.

It is quite apparent from the statements of Mr. Holden, supported by the railroad executives, that the carriers feel they must have the Labor Board retained in order to successfully carry out a further program of labor deflation.

They state that mediation was successful during the period of rising prices where increases of wages could be granted but that the Labor Board is necessary to help them bring about wage reductions.

They talk constantly about the representation of the public interest through public representatives, but the opinions expressed by Mr. Hooper, chairman of the Labor Board, give clear evidence of what they regard as a proper public representation and where they assume the public interest lies.

If any court had given expression to such partisanship as has been exhibited by Mr. Hooper, a litigant would be entitled to a change of venue as a matter of right on account of the prejudice of the judge, but the railroads know there can be no change of venue from the Labor Board.

Considering only one or two of the attacks made by Mr. Hooper upon the officials of the labor organizations who are required to present their cases before him, and referring to the demand of these officials that some curb should be placed upon the arbitrary and tyrannical abuse of the injunctive powers of the courts (which abuse of power has been criticized by some of the most learned and conservative legal authorities) Mr. Hooper says, quoting from his article in the North American Review for March, 1923:

> It seems that the labor leaders espousing it desire that strikers and their coadjutors shall possess the unfettered license to destroy property and to intimidate and assault those who exercise the right to do the work that the strikers have abandoned. It means that the courts of our land must stand shackled and gagged in the presence of insolent and triumphant force.
>
> It means that the strongest safeguard of life, liberty, and property known to our Republic must be broken down in order that the onrush of the frenzied mob may not be obstructed.

Mr. Hooper then quotes from the publications of six of the national labor organizations, stating that the excerpts "are typical of the sentiments that are being inculcated among laboring men in reference to the government under which they live" and, after further abuse, asserts: "Such a preachment, therefore, tends to the destruction of all government and the enthronement of anarchy."

Inquiry may well be made as to whether Mr. Hooper has attacked with like vicious energy the employing interests who sit on the opposite side of the table when railroad labor disputes are presented for his calm and impartial adjudication.

Of course, it is not necessary to deny that Mr. Hooper's statements reflect in any way the attitude of either the rank and file or the leadership of the national railway labor organizations. It should be, however, very easy for this committee to understand why these organizations view with distrust the proposal that the wages and the working conditions which determine the happiness of several million persons supported by employment in the transportation industry should be fixed by persons holding such an impartial and judicial attitude as that indicated by the speeches of Mr. Hooper and the dissenting opinions of the former chairman of the board, Judge Barton.

One further expression of Mr. Hooper's opinions is important. He has devoted much time and energy to denouncing railroad strikes, stating, for example, that there is not one sound argument that can be advanced in favor of permitting them.

The labor organizations do not propose to defend strikes as a desirable method of adjusting labor controversies.

It is often forgotten by outside interests that a strike is essentially an act of desperation whereby a man deliberately imposes hardship and suffering upon himself and his dependents. Neither the honest

officials of labor organizations nor the members thereof can find any pleasure or satisfaction in a strike itself and they are as anxious to eliminate strikes from industry as the public which suffers far less in a strike than the strikers themselves.

But Mr. Hooper's alternative for railroad employees is to require by law that men who enter the railroad service shall not be allowed to take collective action in protection of their common interests in the only effective way which has been devised up to date for combatting the arbitrary abuses of the employing power.

He has asserted that this does not mean involuntary servitude, that public tribunals would determine the amount of wages a man should receive and the conditions under which he should work. With a characteristic lack of the sense of humor he asserts "that the employees would receive fair treatment is exemplified by the treatment they have received at the hands of the Railroad Labor Board."

Mr. Hooper fails entirely to observe that while the men are engaged in what is a public service they are subjected to the will of private masters; that while the transportation business is a public business, it is managed by private individuals, not by public officials. The position in which he, therefore, deems it proper to place the railroad employees is practically that of convict labor leased to private contractors. They are to assume that public tribunals will paternally provide them with food and clothing, although the railroads suggest as one qualification that they are only to have adequate wages if the railroads are financially able to pay them without reducing the wages of capital.

In concluding this presentation concerning the failure of the Railroad Labor Board I should point out that no development in this generation has so greatly discredited public agencies for the solution of industrial problems in the minds of the workers as the functioning of this Railroad Labor Board. The confidence of railroad employees in such a public body is completely destroyed. The confidence of workers in other industries in similar public bodies has been equally undermined. If confidence in the effectiveness and fairness of public agencies for the solution of industrial disputes is to be restored, we insist that in the proposed bill the best and safest means is provided for establishing a body of public officials as mediators and for providing neutral arbitrators as necessity may require. We hope that such a machinery will, in time, restore the general confidence of labor in seeking through the services of public officials or private impartial citizens the adjustment and arbitration of industrial controversies.

IV. Mediation proceedings under former law.

The presentation made by Dr. Charles P. Neill, manager of the bureau of information of the eastern railways, was evidently intended to discredit the proposed bill by creating the impression that much strife and discord existed during the period when the Erdman and Newlands Acts were in force.

Doctor Neill cited a large number of strikes that took place during this period. He omitted to inform the committee of two important reasons why such strike conditions developed.

In the first place, the Erdman and Newlands Acts provided for mediation only in case of interruption or threatened interruption of traffic. The pertinent language of the Newlands Act reads that "in

cases in which an interruption of traffic is imminent and fraught with serious detriment to the public interest." It was the construction of the Government mediators that they could not be called in to mediate until a situation such as described had developed.

In other words, it was practically necessary, at least, to take a strike vote, if not to put a strike into effect, to obtain Government mediation.

In support of this, let me read into the record the following letter signed by Doctor Neill himself and Judge Knapp, which was written in connection with mediation proceedings involving 54 railroads in the eastern part of the country in 1913. Both parties joined in requesting the mediators to assume jurisdiction, and after they came on the ground and had spent several days there they abandoned the case, and this letter was addressed to the president of the Brotherhood of Locomotive Firemen:

NEW YORK, *January 15, 1913.*

Mr. W. S. CARTER,
President Brotherhood of Locomotive Firemen and Enginemen,
Broadway Central Hotel, New York City.

DEAR SIR: After repeated conferences with the representatives of the respective parties to the controversy now pending between the eastern railroads and their locomotive firemen, it is apparent to us that the dispute has not reached the stage contemplated by the Federal law, which provides for mediation proceedings, and we are convinced that at the present stage all efforts at mediation and conciliation will prove fruitless. We have, therefore, decided to discontinue any further negotiations and withdraw from the controversy, leaving before the parties thereto the same propositions that were under consideration by them respectively at the time that mediation was invoked.

Very truly yours,

MARTIN A. KNAPP,
Presiding Judge, United States Court of Commerce.
CHAS. P. NEILL,
Commissioner of Labor.

The purpose of reading this letter, Mr. Chairman, is to show that while Doctor Neill attempted to show a great many labor disturbances on the railroads in the number of years his statement covered, the facts are that the law, under the Erdman and Newlands Acts, required that condition to exist before the mediators could take jurisdiction. The Howell-Barkley bill eliminates that.

A point I desire to here emphasize is that after the withdrawal of the mediators from the firemen's case and after a strike vote had been taken the mediators were again called in and settlement was reached by agreeing to arbitrate the controversy under the Erdman Act. During the entire period covered in Doctor Neill's statement it is interesting to note that a settlement, without actually resorting to a strike, was reached in every case where mediation was invoked.

In this connection it is also well to point out that the series of strikes detailed in Mr. Walber's statement occurred during the period of Federal control when the mediation laws had been suspended and the machinery was not available; to which may be also added the highly important fact that they occurred during a period when the wages of railroad employees had not kept pace in any measure with the rising cost of living, when dissatisfaction was rife, when the Federal administration was refusing to make necessary wage increases on account of the imminence of the return to private control.

This consideration leads to my next objection to Doctor Neill's statement in that he omitted to show to the committee the general cause underlying the strikes and threatened strikes to which he refers.

It can not be denied that prior to the war railroad employees as a whole were grossly underpaid. The average earnings of all employees in the year 1900 were $567, in 1907, $641, in 1913, $757.

Is it surprising that employees so grossly underpaid as were these employees were constantly in a state of unrest and that strikes were often imminent?

I desire to present at this point two exhibits. The first consists of three tables showing the daily wage rates for various occupations in the United States in the year 1910, in the year 1913 and in the year 1922. These tables show the comparatively low wages paid the railroad employees in 1910 and 1913 and that by 1922 when employees in other industries had received large advances in compensation, the railroad employees, though somewhat advanced from the low wages of previous years, had not received increases commensurate with those obtained by employees in other industries.

In other words, the railroad employees in 1910 were, as a whole, grossly underpaid and, yet, with the increasing wages in the following 12 years, their wages did not increase in even as great proportion as those employees in other and better paid industries.

(The data referred to is here printed in full, as follows:)

WAGES IN OTHER INDUSTRIES COMPARED WITH WAGES OF LOCOMOTIVE ENGINEERS AND FIREMEN

[Research department, Brotherhood of Locomotive Firemen and Enginemen]

TABLE I.—*Average daily wage rates as of May 15, 1910, for various occupations in 16 representative cities in the United States*

Bricklayers	$5. 48	Granite cutters, inside	$3. 99
Plasterers	5. 32	Electrotypers—molders	3. 88
Freight engineers	5. 25	Painters	3. 73
Plumbers	4. 86	Electrotypers—finishers	3. 71
Cement finishers	4. 74	Boiler makers—manufacturing and jobbing shops	3. 52
Stonecutters	4. 59	Blacksmiths—manufacturing shops	3. 42
Machine operators—day work—newspaper	4. 48	Molders—iron	3. 38
Structural ironworkers	4. 46	Compositors—book and job	3. 36
Compositors—day work—newspaper	4. 43	*Freight firemen*	3. 34
Inside wiremen	4. 23	Machinists—manufacturing shops	3. 29
Machine operators—book and job	4. 05	Hod carriers	3. 10
Sheet-metal workers	4. 02	Plasterers' laborers	2. 99
Carpenters	4. 01	Building laborers	2. 24

TABLE II.—*Average daily wage rates as of May 15, 1913, for various occupations in 16 representative cities in the United States*

Bricklayers	$5. 62	Granite cutters—inside	$4. 13
Plasterers	5. 58	Painters	4. 02
Freight engineers	5. 29	Electrotypers—molders	3. 99
Plumbers	5. 19	Electrotypers—finishers	3. 85
Structural ironworkers	4. 98	Boiler makers—manufacturing and jobbing	3. 69
Cement finishers	4. 92	Molders	3. 67
Machine operators—day work—newspaper	4. 80	Plasterers' laborers	3. 63
Stonecutters	4. 76	Blacksmiths—manufacturing shops	3. 60
Compositors—day work—newspaper	4. 75	Compositors—book and job	3. 59
Inside wiremen	4. 71	Machinists—manufacturing shops	3. 40
Sheet-metal workers	4. 52	*Freight firemen*	3. 38
Carpenters	4. 33	Hod carriers	3. 20
Machine operators—book and job	4. 29	Building laborers	2. 55

TABLE III.—*Average daily wage rates as of May 15, 1922, for various occupations in 16 representative cities in the United States*

Plasterers	$9. 25	*Freight engineers, local*	$7. 44
Bricklayers	9. 14	*Freight engineers, through*	7. 05
Plumbers	8. 64	Blacksmiths, manufacturing shops	6. 89
Granite cutters—inside	8. 42	Plasterers' laborers	6. 88
Stonecutters	8. 37	Yard engineers	6. 51
Structural ironworkers	8. 28	Machinists—manufacturing shops	6. 29
Machine operators—daywork—newspaper	8. 12	Hod carriers	6. 18
Inside wiremen	8. 08	Boilermakers—manufacturing and jobbing shops	6. 11
Compositors—daywork—newspaper	8. 03	Molders—iron	6. 08
Machine operators—book and job	8. 00	*Passenger engineers*	6. 00
Cement finishers	7. 98	*Freight firemen, local*	5. 38
Sheet-metal workers	7. 95	*Freight firemen, through*	5. 25
Electrotypers—molders	7. 91	*Hostlers*	5. 15
Electrotypers—finishers	7. 83	Building laborers	5. 09
Carpenters	7. 67	*Passenger firemen*	4. 50
Painters	7. 63	*Hostler helpers*	4. 40
Compositors—book and job	7. 44		

Mr. ROBERTSON. The other exhibit which I present is a table of operating statistics showing, in general, the increased work imposed upon engineers and firemen and the increased productivity of their labor as a result of the increase in tractive power of locomotives.

(The exhibit referred to is here printed in full, as follows:)

SOME RAILROAD STATISTICS AND HOW THEY AFFECT RAILROAD EMPLOYEES

[Research Department B. of L. F. & E.]

[From reports of the railroads to the Interstate Commerce Commission]

Item	Fiscal year 1908	Fiscal year 1911	Calendar year 1916	Calendar year 1921	Increase, 1921 over 1908	
					Amount	Per cent
Miles of road operated	230,494	246,238	259,705	[2]258,285	$27,791	12.06
Number of locomotives	57,698	62,463	65,595	68,718	11,020	19.10
Average tractive power of locomotives	26,356	28,291	32,840	36,472	10,116	38.38
Average tractive power per engineer	26,370	29,126	34,080	42,744	16,374	62.09
Average tractive power per fireman	24,842	27,798	33,114	41,010	16,168	65.08
Locomotive miles [1]	1,517,409,596	1,597,174,668	1,729,625,801	1,470,798,417	−46,611,179	−3.07
Locomotive miles per engineer	26,313	26,275	27,364	25,084	−1,229	−4.67
Locomotive miles per fireman	24,788	25,125	26,588	24,066	−722	−2.91
Ton-miles of revenue freight	218,382,000,000	253,784,000,000	366,174,000,000	309,443,000,000	91,061,000,000	41.70
Ton-miles per engineer	3,787,000	4,183,000	5,793,000	5,277,000	1,490,000	39.35
Ton-miles per fireman	3,567,000	3,992,000	5,629,000	5,063,000	1,496,000	41.94
Ton-miles per locomotive	3,785,000	4,063,000	5,582,000	4,503,000	718,000	18.97
Passenger miles	29,083,000,000	33,302,000,000	35,220,000,000	37,709,000,000	8,626,000,000	29.66
Passenger miles per engineer	504,000	547,000	557,000	643,000	139,000	27.58
Passenger miles per fireman	475,000	522,000	541,000	617,000	142,000	29.89
Passenger miles per locomotive	504,000	532,000	537,000	549,000	45,000	8.93

[1] Taken from Statistics of Railways in the United States, Interstate Commerce Commission.
[2] In the year 1916, includes 291,537 miles in yard switching service, not distributed.

Mr. ROBERTSON. This table shows that the average tractive power of locomotives per engineer in 1921 over 1908 increased over 62 per cent and the increase per fireman was over 65 per cent. The ton-miles per engineer increased over 39 per cent and per fireman over 41 per cent.

Now, let me translate these statistics into human terms, taking the case of firemen as particularly representative.

This means that the firemen in attendance upon these larger locomotives were required to shovel more coal, were required to engage in heavier labor, with less interruptions through their period of service. This additional work imposed upon the firemen was a source of additional earnings to the railroads. Yet, the purchasing power of the wages of firemen had increased not at all up to the period of Federal control.

One of the major complaints which developed among the firemen during this period was the complaint of overwork.

This gives me an opportunity to make two points which I regard as important.

First, that strikes are not always brought about by demands for higher wages or easier conditions, that strikes and serious disputes on the railroads often result from the gradual imposition of intolerable conditions.

Take the case of the firemen during this increase in locomotive tractive power. Their work had increased to an extent where it was almost humanly impossible to perform. For these great modern locomotives either automatic stokers or two firemen are a necessity, according to the admissions of the railroads themselves.

The firemen presented this question in the form of a dispute to the Railroad Labor Board soon after its inauguration in 1920. The Labor Board has never decided this case and, thus, for three years the firemen have received no relief in this vitally important matter, for their absolutely just claims, except such relief as they have been able to obtain from the railroads themselves without the assistance of the silent Labor Board.

Nevertheless, the pendency of this dispute before the Labor Board has been the basis for the refusal of road after road to adjust it in conference.

Is it any wonder that the railway employees seek the abolishment of the Labor Board?

Let me cite another instance—the case of the now existing strike on the Virginian Railway. This railroad runs through a mountainous country and there are many tunnels along the line. These tunnels are low-roofed. The grades require the use of two pusher engines on the read end in addition to the engine at the front end. The result is that with the two locomotives working together in these low tunnels, clouds of superheated gases forced down from the stacks subject the men to an atmosphere in which it is necessary to wear gas masks to prevent asphyxiation.

Against these conditions, the engine service men made a modest suggestion that in the summer months the engines should be placed far enough apart so that one engine would not pour its gases down immediately upon the following engine. In fact, so far as possible, this would prevent more than one engine being in a tunnel at the same time.

No relief was obtainable from the railway and eventually, in desperation, a strike was put into effect by the engineers and firemen of this road in protest against this and other conditions. The Labor Board recommended that a consulting engineer should be employed by the parties to complete tests as a basis of settlement. Failing to reach a settlement the parties were advised the case could be resubmitted to the board. Here is an example of the futility of the Labor Board. It did not have even the technical qualifications to decide the question itself. If it had decided, its decision would have had no force.

It is hardly to be believed that if Federal mediators had been available it would not have been possible for the mediators to have brought about some improvement in these intolerable conditions. There is no question but that if mediation, conciliation, and arbitration had been available in this instance, this strike could have been prevented.

To conclude the questions raised, particularly by Doctor Neill's statement, I should call attention to the fact that the report of the Harvard Bureau of Economic Research, showing that from 1900 to 1917, while the population increased only 34 per cent, the physical production of agriculture, mining, and manufacture in the United States increased 83 per cent. It is quite a safe assumption that in the last 20 years there has been a 30 per cent increase per capita in the output of our industries. There can be no doubt that railroad labor has shown a similarly increased productivity, yet it is quite apparent from the statistics introduced in great volume before the Labor Board that the wages of railroad labor have always lagged behind even the increased cost of living.

Under these conditions, it is surprising that industrial disturbances on the railroads have not been more frequent and more widespread than the records show.

V. The short lines.

The short-line railroads appear as always to help the trunk lines pull their chestnuts out of the fire.

The sorrows and poverties of the short lines are dragged into every conference affecting industrial conditions generally upon the railroads.

There is not a dollar of expense imposed upon the short lines by a single provision in the Howell-Barkley bill. They are not required to set up any machinery. They are not required to bear any part of the expense of setting up any machinery. The employees and managements are free to act through representatives of their own choice to make and maintain such agreements as may be necessary to facilitate the operation of the roads. There is nothing in the act that makes any provision for increases in pay. There is no expensive method added for adjudicating disputes. If disputes arise under existing agreements, there is a tribunal established without expense to the short lines through which these disputes may be promptly adjusted with less expense of presentation than in going to the present Labor Board.

The apparent basis for the claim of all the short line witnesses that this bill will increase their operating expenses is to be found indicated in the testimony of Mr. Kane.

He says that classification will increase the number of employees. Since the present classification of the Interstate Commerce Commission has not increased the number of employees it is rather difficult to follow the logic of the claim that a continuance of that classification would increase the number of employees.

He says it will raise the standard of wages. There is absolutely nothing in the bill setting any standard of wages, whereas the apparent provisions of the present transportation act might be regarded by Mr. Kane as setting higher standards for wages than apparently are in effect on the short line railroads.

He says all organizations of employees on the short lines will be required by national organizations to make wage demands.

There is not a word in the act which either grants such authority to the national organizations or in any way forces employees of the short lines to become members of the national organizations and submit to such requirements.

Furthermore, the national organizations in themselves do not initiate wage movements. Such movements are authorized by the local organizations.

Put into simple language, it seems that Mr. Kane's theory is that if organizations of employees of the short-line railroads is in any way encouraged by the proposed legislation this will result in increasing wages. It would be difficult for Mr. Kane to point out any provision in this act which will operate any more than the provisions in the present transportation act to encourage further organization of the employees.

This apparent fear that the employees will be encouraged to further organize is a curious objection on the part of the representatives of the Short-Line Railroad Association, which is one of the most compact and most completely organized national organizations of employers that there is in this country.

Mr. Kane appeared before the committee and introduced elaborate statistics and information gathered and prepared by the organization of the short-line railroads, which appears to be functioning with high efficiency. If, with complete freedom of association with their fellows and through choice of their representatives, it should come about in the course of time that the employees of the short-line railroads should be better organized than at present for the protection of their common interests, does it lie in the mouth of the counsel for the American Short Line Railroad Association to ask that Congress help to impede the employees of the short-line railroads in exercising that right of self-organization that for the protection of their own common interests is utilized by their employers, the short-line railroads?

It hardly seems proper for counsel for the Short Line Railroad Association to ask the Congress to adopt a policy of opposition to the organization of employees of any corporations except those that are earning satisfactory dividends.

VI. The proposed wage deflation policy.

There is one broad question which I wish to present to this committee in concluding my statement.

The executives of the carriers have come before this committee announcing general agreement in an anticipated movement for wage reductions for the further deflation of labor. They have insisted that for this purpose they require the aid of a Government tribunal,

such as the Labor Board, to which disputes may be carried and before which, with the enormous resources at their command, the railroads may carry on a steady and persistent propaganda to prepare "public opinion" for the necessity for reduction in wages and the imposition of less favorable working conditions. This is a safe tribunal for the railroads. If the decisions, by any chance, fail to meet with the approval of the carriers, they can either start litigation of the question of the jurisdiction of the board or decline flatly to put its decisions into effect.

If the decisions are opposed to the interests of the employees and favor the carriers, they can then put the decisions promptly into effect, against which action the employees have no possible relief except through the desperate expedient of quitting their employment. Even Mr. Hooper admits that the employees can only reject an adverse decision by striking.

If there is a quitting of employment in such numbers as to exert any pressure upon the carriers to improve conditions, the carriers can then utilize the decisions of this board to whip up "public opinion" into the notion that the employees are defying the Government and obtain some such ruling as that of the Circuit Court of Appeals, sitting in Chicago, which held that the shopmen's strike of 1922 was a strike against an instrumentality of the National Government, "to be classed with the insurrection of the Boston policemen."

It is not on record that this same Circuit Court of Appeals, when considering the refusal of the Pennsylvania Railroad to obey the decision of the same Labor Board classed the officials of the Pennsylvania Railroad as insurrectionists comparable to the Boston policemen.

The Labor Board is clearly not a two-edged sword which cuts impartially in either direction. It has a blunt edge when used against the employers. Its blows have no force; but when this sword is turned against the employees it is sharp and cuts deep. The only remedy which the employees have against this unjust situation is to ignore the Labor Board entirely, to refuse to waste either time or money in seeking relief where no sure relief can be found.

All these reasons for the employees' objections to a continuance of the Labor Board existed and grew in volume prior to the beginning of the present hearings. But with the presentation of the carriers' objections to the proposed legislation there has developed a basis for the opposition of the employees to a further continuance of this board which is as weighty as all the objections previously urged combined.

In the first place, the carriers have themselves urged and supported the theory that they may take advantage of hitherto unused provisions in the transportation act and make hypocritical agreements with their employees for increased wages and then present these agreements to the Labor Board and obtain a so-called suspension of the decision through the votes of the railroad and public members of that board which will permit them at the end of protracted negotiations and after an agreement to repudiate their obligations.

In the second place, the railroads have announced a policy of future deflation of labor with the aid which they assert they expect to obtain and can only obtain from the Labor Board.

Are we to understand that the policy at present vaguely outlined by the railroads shadows forth an industrial conflict in the transportation industry of a magnitude not hitherto suffered?

Are we to understand that they propose to enter upon such a program of labor deflation and for their own purposes the present transportation act should be maintained by the Congress of the United States in order to insure to them its potent aid in reducing the American standard of living?

If such are the fair conclusions through the presentation of the railroads' objections to the proposed legislation, we submit that they offer most persuasive reasons why this proposed legislation should be enacted. They offer most persuasive reasons why the Labor Board, hostile and offensive to the mass of organized employees, should be abolished; they offer most persuasive reasons why a true machinery of honest conference, fair bargaining, real Government mediation, and, finally, fair and conclusive arbitration, removed from political influences, should be set up—a machinery which neither side can hope to capture and utilize for partisan purposes—in order to provide a sure means to preserve peace on the American railroads and to aid them in maintaining the prosperity of the Nation through preserving the continuity and efficiency of transportation service.

The CHAIRMAN. Is that all, Mr. Robertson?

Mr. ROBERTSON. Yes; thank you.

The CHAIRMAN. Are there any questions?

Senator GOODING. No; I have no questions.

The CHAIRMAN. We will hear you, Mr. Hooper.

Mr. THOM. Can I be indulged just a moment?

The CHAIRMAN. Very well.

Mr. THOM. The statement read here this morning by Mr. Richberg contains such unjustified aspersions on motives of honorable men and such misrepresentation of the facts and the law, and such defamatory statements in regard to the witnesses, that we would like to have the opportunity of presenting to the committee a statement in reply at the proper time. If the conditions of the committee will not enable it to hear our witnesses orally, we will file with it a written statement.

The CHAIRMAN. With the consent of the committee, we will let you file a written statement.

Senator GOODING. I do not know, Mr. Chairman. I think, of course, you should have an opportunity to reply, but I do not know whether it is quite fair to file a statement here and permit it to go into the record without the committee knowing what it contains. I prefer to give them time to reply, Mr. Chairman, orally.

Mr. THOM. That is perfectly satisfactory to us.

Senator GOODING. I am willing to sit if the chairman is willing to give them the time.

Mr. THOM. That would be preferable.

The CHAIRMAN. When will you have it ready?

Mr. THOM. The witnesses have scattered.

The CHAIRMAN. You would only want one witness for that; you would present only one?

Mr. THOM. I do not know.

Senator GOODING. You could prepare a statement and come here and present it orally. I think they are entitled to make a reply.

Mr. THOM. I think our record before the committee will justify a claim on our part that we have not tried to delay the proceeding, and we shall not try in the future.

The CHAIRMAN. We are planning to conclude our hearings on Monday.

Mr. THOM. This is Friday, and these witnesses are scattered very far, and I doubt if we can get it in by Monday.

The CHAIRMAN. I do not believe the committee wants to postpone this hearing indefinitely to accommodate witnesses.

Senator GOODING. I would not think that necessary, Mr. Thom. I would say about Tuesday.

Mr. THOM. We could be ready by Wednesday, when you have a full meeting of the committee.

Senator GOODING. That is our regular day, Wednesday. We might hear him in the afternoon.

The CHAIRMAN. We start hearing on 15–A on Wednesday.

Senator GOODING. You better try and make it on Tuesday.

Mr. THOM. I will do the best I can, with the understanding that the committee will give us this opportunity.

Senator GOODING. Of course, we want to get through with the case and have the evidence studied.

The CHAIRMAN. If he filed a statement, we could read it into the record.

Senator GOODING. That is hardly a fair thing to do, either to the committee or to the proponents of this measure. I think to permit any side to file a document here without an opportunity on the part of the committee to make objections to it or give expressions about it is hardly a thing that we can afford to do. I would not be willing to do it, Mr. Chairman. But I think Mr. Thom could get his statement ready by Tuesday afternoon, and that is so close to the time——

Mr. THOM (interposing). I will do my best.

Senator GOODING. All right; is that satisfactory, Mr. Chairman?

Mr. THOM. May I say one word about the bulletin that has been referred to by Mr. Robertson?

The CHAIRMAN. Yes.

Mr. THOM. I note in that bulletin, in a part that Mr. Robertson did not read, just under the financial statement on page 4, this sentence:

> The fact that these assessments for propaganda to influence legislation were charged against operation expense is of peculiar interest to the American people, because by this device they are made to pay the freight and passenger rates for the cost of passing legislation inimical to their interests.

I would regard it, Mr. Chairman, as entirely proper to make such charges to operating expenses, but the statement here presented refutes that idea. The railroads were then under Federal control, in 1919. The only income they had was the standard return; that was a corporate matter and operating expenses were not involved. It appears from the statement that three-fourths of this amount was to be paid by February 1, 1920. The Federal control ended on the 1st day of March, 1920.

I wish the committee to bear in mind some of the conditions which then confronted the railroads. An effort was being made by the director general to extend Federal control for a period of five years. That is made manifest by the records of this committee. The director

general, and Mr. McAdoo, the former director general, and Mr. Hines, the then director general, appeared and advocated that policy. The Esch-Cummins bill was not in existence when this was done. The question of there being legislation was in existence, but in October, 1919, when this program was adopted, the Esch-Cummins bill was not in existence; it did not come into existence until long after, probably in February, 1920.

The CHAIRMAN. Do you, Mr. Thom, know how much had been spent on March 1, 1920, for the propaganda purpose?

Mr. THOM. I was going on to say that this amount was spent pursuant to this assessment. There was in the next year an assessment for such purposes of $150,000, and for the following year of $200,000, and there has not been any participation on the part of the Association of Railway Executives in publicity matters since 1922. Whatever is done in that direction is done either by individual railroads or by groups of railroads, but not by the Association of Railway Executives. But, at this time, when the whole question of the future of the railroads, of their ability to furnish service to the public, was in the balance, when a propaganda of misrepresentation was being made against them in all communities, they did attempt to address 110,000,000 of the American people by putting the facts as to this industry before them publicly, openly and avowedly.

The CHAIRMAN. Why were these reports marked "Confidential" if it was so open and aboveboard?

Mr. THOM. The result was open on the pages of the newspapers. The work done was on the pages of the newspapers,; there was no effort made at any secret method. Of course, the financial arrangements by which any business carries itself on are confidential. The method of the expenditure of that money and the purpose of addressing the public was not confidential, but open and avowed, and was for the purpose of putting the truth before the American people as the railroads saw it, and it was an effort, Mr. Chairman, to continue the capacity of these railroads to give to the American people adequate service and did not cost one-tenth as much as the efforts made in 1922 by the shopmen to prevent the railroads from giving to the American people adequate service.

The CHAIRMAN. Does the witness desire the committee to understand that the financial records of the railroads are confidential?

Mr. THOM. No, sir; they are not confidential.

The CHAIRMAN. I understood the witness to say the financial records are confidential.

Mr. THOM. I mean to say that it is the desire, I doubt not, of every business man to have his own financial methods on his own books, but that does not mean they are not open to the public, and the railroads' books, by law, are made open to the public and every cent spent must be disclosed to the Interstate Commerce Commission.

Senator GOODING. Mr. Thom, to what expense is advertising charged?

Mr. THOM. Advertising, now?

Senator GOODING. Yes.

Mr. THOM. You will have to go to the individual roads, because we do not do any of it. I am talking now about the Association of Railway Executives.

Senator GOODING. I might say for your information, that that matter was taken up and the Interstate Commerce Commission advised it was charged to operating expenses.

Mr. THOM. I think that is true, and I think that is where it ought to be charged. It has come to be one of the expenses that we must incur in order to get the facts of this industry fairly before the American people. We assert the right to do it and defend it as a proper expense in the interest of the railroads and the public, that the public may be properly advised of the facts and make up their minds after having the statements of both sides of the case before it.

The CHAIRMAN. The expense comes out of the public and not the railroads?

Mr. THOM. It is a matter of operating expenses and it is a part of the expenses to be met by the charges that the railroads collect from the public, and that is where it ought to be, because it is in the interest of the public that the railroad should have an opportunity to furnish them the transportation and not be throttled by antagonistic and misinformed public action.

The CHAIRMAN. I am not clear on that. If that is a part of operating expense, then, in view of the fact that you are providing for a fixed income, it would not make any difference how much you spent for propaganda?

Mr. THOM. Yes, it would; because under the provision of law any improper amount spent can not be included in the amount charged.

Senator GOODING. There is no supervision over that.

Mr. THOM. Yes, there is.

Senator GOODING. I beg to differ with you.

Mr. THOM. By the commission.

Senator GOODING. You must know that there is not.

Mr. THOM. I know that that subject is giving the Interstate Commerce Commission at this moment grave thought as to the method of treating that.

Senator GOODING. Yes; but they have no authority under the law to supervise expenditures.

Mr. THOM. Oh, yes, they have. They have the right under the law to make rates only after they determine the expenses are economical and honest.

Senator GOODING. Yes; but they take that from the reports of the railroads themselves.

Mr. THOM. They seem not to do that.

Senator GOODING. I am advised by members of the commission that they have no authority to supervise the expenses of railroads, to say how much shall be spent or how little shall be spent, but must accept the reports of the railroads.

Mr. THOM. I doubt whether you have been advised by any member of the commission that they must take the expenditures reported by the railroads as final in fixing the rate. I claim that no matter what we spend they can say "All you spend in addition to the proper amount, you can not recover in the way of charges on the public."

Senator GOODING. The point I make is that the Interstate Commerce Commission can not control the railroads in their expenditures, to say how much or how little they shall spend.

Mr. THOM. With all due deference, that is not the point, Senator. The question is how much of this can be put back on the public.

Senator GOODING. Just as much as the railroad pleases.

Mr. THOM. And the Interstate Commerce Commission itself has control over that.

Senator GOODING. They have not exercised that control if they have it.

Mr. THOM. Because they have not found any of the expenses to be more than they ought to be.

Senator GOODING. The Interstate Commerce Commission may be doing all they can humanly, but they have not been provided with the funds with which to do all they should do and with which they could do much of these things, and that is the purpose of my resolution, so that the Interstate Commerce Commission may be in a position to determine and know how much is spent, how it is spent, and what it is spent for.

Mr. THOM. I want to say that there is nothing the railroads will welcome more sincerely than a fair consideration of that subject.

Senator GOODING. Then, I hope they won't oppose the adoption of my resolution.

Mr. THOM. They certainly will not.

Mr. RICHBERG. I know it is not proper, but I would like to take just a minute to read a short colloquy between Mr. Warren S. Stone and Mr. Walber, who testified at a conference between representatives of the management of the New York Central lines and the Brotherhood of Locomotive Engineers and the Brotherhood of Locomotive Firemen and Enginemen, regarding requests for increases in wages of locomotive engineers, firemen, hostlers, and hostler helpers, in New York City on December 6, 1923. The colloquy I refer to is as follows:

Mr. STONE. Mr. Walber, Mr. Cuyler, who is now dead, and who was I think the chairman of the association, told us with his own mouth that they had spent over $3,000,000 the year before on publicity.

Mr. WALBER. That was the total advertising bill of the railroads for publishing time-tables and everything of that kind.

Mr. STONE. Well, he did not say anything about time-tables.

Mr. WALBER. Advertisements of all kinds.

Mr. STONE. It was done to bring about and create public sentiment to get a tribunal to handle these railroad problems and as a result of it they got the Railroad Labor Board and he thought it was a damned poor investment.

Pardon the language.

Mr. WALBER. The total advertising bill for all kinds of advertising of the railroads that year was about $3,000,000—that was for all kinds of advertising. That is where that $3,000,000 went.

Mr. STONE. If some of you fellows keep on talkimg we will get all the facts in the case.

Senator GOODING. I think the committee has been furnished with the information, though it is not a matter of record, and I think the information states it is about $7,000,000; that is my understanding. That was the question asked, and I think that is the report that came back.

The CHAIRMAN. Mr. Hooper, we will hear you now.

STATEMENT OF MR. BEN W. HOOPER, CHAIRMAN RAILROAD LABOR BOARD, REPRESENTING THE PUBLIC

Mr. HOOPER. Though authorized by the Railroad Labor Board to appear before your honorable committee, I desire that my statement be taken only as an expression of my own views.

The CHAIRMAN. Would you mind saying why these are your own views, and why you say you are authorized to speak for the board? I do not understand your statement under that preface.

Mr. HOOPER. Why, I thought, Mr. Chairman, that the reason for it would be quite obvious when one considers the make-up of the Railroad Labor Board. There are the three groups, the two partisan groups and the nonpartisan group representing the public. I may express views in this statement that would not be approved by the railway members of the board and statements that would not be approved by the labor members of the board.

The CHAIRMAN. So although you are authorized to come here by the Labor Board, the statement is not authorized by it?

Mr. HOOPER. No; the statement is not authorized by it and the statement has not even been submitted to it. Of course, in one general aspect of the matter my statements will probably reflect the wishes and view of the Labor Board, and that is so far as it deals with the work that that board has been doing during the past four years. I may say just in that connection that we think that so far the work of the Labor Board has been very inadequately pictured to this committee and we want a fairer and more adequate presentation of the actual accomplishments of the Railroad Labor Board.

The great unorganized public, in all the walks of life and in all the lines of business and industry, is overwhelmingly opposed to the idea that there is no better way to settle railroad labor controversies than to permit the immediate parties to fight them out. Their interest in the question before this committee is paramount and is entitled to supreme consideration. And just here I was struck this morning at the rather remarkable spectacle presented to your honorable committee by the expressions of views from the two extreme schools of thought that we have in this country on the subject of the adjustment of railroad labor controversies.

The extreme view of those representatives of the employees who desire that the present law be denatured to the extent that the public shall have no supervision over the matter and in order that they may be free to strike without any interference on the part of the public, and the extreme view presented by the gentleman here representing the National Industrial Traffic League who hold to the same opinion expressed by the employers, but for a different reason, but the substance of his presentation amounting to the same, that the public should not undertake to supervise this matter of the adjustment of labor controversies, representing as he does, not the masses of business people or taxpayers or shippers and producers of this country as I view the matter, but representing that extreme element of capital you might say, of employers, who hold to the view that employers and those owning and operating railroads in particular should be left perfectly free to impose by any means possible their will on their employees. That was manifested by

these same organizations in connection with the strike in October, 1921, when expressions from their element, publicly made in Chicago, criticised members of the Labor Board for having interfered and prevented that fight, going so far as to state that the Labor Board should not have intervened but that the strike should have been permitted to be pulled off according to the programs of the employees. Now, in between those two lines, I think the opinion of the American public at large will be found. That the splendid body of men which operates the railroads of this country shall enjoy the best wages and working conditions consistent with reason and justice should be a matter of great concern to all of us. The hazard of their employment and skill and responsibility with which they serve the people is incomparable. The lives and property of the millions are dependent upon the fidelity and skill of the men in cab and coach, in shop and office, at the telegraphic keyboard, and out upon the right-of-way. Theirs is an honored calling and, indeed, a public trust.

And yet, it is not conceivable that circumstances can hereafter arise under which they will ever be justified in closing down railroad transportation by a strike. The controversies of the future in regard to their wages and working conditions will involve nothing of greater importance than an increase or decrease of wages or a revision of some working rule. The margin between what they may ask and what they may legally and peacefully obtain will never be great enough to justify economic war upon the public, nor will the threat of industrial warfare be necessary to obtain justice. There will never come a time under public supervision when a condition so burdensome will be sought to be imposed upon railway employees for which no defense can be found except to plunge the country into chaos.

Railway employees should never be placed in a position where they feel impelled to wring from a domineering and hard-boiled management just and reasonable conditions. It must be remembered that railway managements are subject to human frailties just as the employees are.

Settlements obtained by force command the confidence and respect of nobody. A reduction of wages brought about by a lockout leaves unhealable wounds in the minds of men. Just demands may be lost in a strike, and unjust ones may be won.

The success of a railway strike is measured by the amount of loss and suffering it inflicts upon innocent people—producers, shippers, and consumers. If the perishable products of the farm, the dairy, and the orchard rot for lack of transportation, and if a passenger train ditches and mangles its human cargo because of defective equipment or unskillful operation, these things are pointed out to as evidences of the effectiveness of the strike.

On one corner of this industrial triangle we have 2,000,000 people who own the railroads and who have the selfish human desire to make money out of their operation. Congress would hardly be willing to let them exclusively draft a law for the regulation of the conduct of labor, the establishment of wages and working rules, and the prevention of strikes.

On another corner of the triangle is labor, 2,000,000 strong, well organized for the very human purpose of constantly bettering wages

and working conditions, with a leadership devoted to the idea that the power to strike is, in the last analysis of the matter, the only weapon upon which they can safely depend. Congress could scarcely afford to manifest such a degree of optimism as to assume that labor alone would draft a law for its own regulation in connection with industrial controversies that would be fair to the carriers and to the people.

On the third corner of the triangle stands the great body of American people, 106,000,000 strong, with every business interest and activity, and with the preservation of physical lives of millions dependent, not periodically but daily, upon the continued operation of the railways. They never can permit either the managements or men, by lockout or strike, for any cause or reason, real or fancied, to throttle railway transportation. The law of self-preservation forbids and those who perform the responsible work of actual operation must alike realize that they are charged with a sacred trust to maintain this indispensable public service.

The public, in its eagerness to obtain the uninterrupted railway transportation rightfully due it, must not overlook its reciprocal obligation to both ownership and employees, but must offer to the one the opportunity of reasonable profit and must guarantee to the other just and reasonable wages and working conditions.

With the transportation machine quietly and efficiently furnishing adequate service, it would be quite human for the public to lapse into a state of smug indifference to the welfare and contentment of both the people who own the railroads and the folks who do the work. It is the function of organized labor to see that its interests are not neglected, and I believe it will be conceded that this function is well performed.

The labor organizations which sponsor the bill pending before you have stated in your presence that they were engaged 18 months in the preparation of the measure, and that this is the sixth draft of it. That these men of vast experience and life-long technical training in the science of labor controversy, with the cooperation of able legal advisers, have found it necessary to devote such infinite pains to the drafting and redrafting of this bill must impress us as uninitiated laymen with the difficulties inherent in this problem. May I also venture to suggest that it gives the public fair warning as to the amount of time and care which the 96 per cent who would be expected to live under this law should accord to the study of the proposals made to them by the less than 2 per cent. Let me hasten to say, however, that no criticism of the sponsors of this bill is implied. They have rendered a useful public service in the definite presentation of their views.

In discussing the merits of the Howell bill it will be in point first to devote some consideration to the law which it is designed to supplant.

Title III of the transportation act, 1920, was the result of much thought and discussion in Congress. It received the bipartisan support of both Republicans and Democrats, and the approval of President Wilson. In a sense, it was a compromise measure, too weak to please some and too strong to suit others. It was not perfect, and its administration during a period of four years has served to bring out and emphasize both its good and bad points. Upon the whole,

however, it was the greatest forward step that has ever been taken in our country and perhaps in all countries for the protection of the public against railway strikes and, at the same time, the conservation of the rights of both carriers and employees.

In appraising this law and the work of the board which has functioned under it, the abnormality of times and conditions must be weighed.

There has never been a time in our history when there were as many industrial combustibles and explosives lying around loose and exposed in the railway business as there were at the termination of Federal control. The employees were dissatisfied with their wages, because an increase had been promised them and had been overdue for many months. Contrary to the prevalent public understanding, railroad employees, as a rule, had not received as high wages during the war as had labor in other industries.

On the other hand, railroad managements were quite generally disgruntled, because, as they claimed, the various classes of employees had been granted unreasonable, uneconomic, and burdensome rules and working conditions during the war, because new regulations of certain classes of employees had been forced on many railroads where such organizations had not existed before, increasing the danger of strikes, and because all these things were handed over to the roads as the unwelcome heritage of the war.

Whatever may have been the merit or the lack of it in these contentions, one thing is certain and that is that the whole question of wages and working conditions affecting every employee of every class on every railroad in the United States was thrown open and dumped on the desk of the Railroad Labor Board at one time. Highly technical schedules of rules from each class of employees, built up during a long term of years, some of them forced on carriers by strike threats, some of them forced on employees by the fear of lost jobs, and some of them the mushroom growth of the war, were concurrently, collectively, and vigorously thrust into the face of the board with demands for revision, and counterdemands for the status quo or something better.

To add to the bedlam of this situation, general business conditions were fluctuating and uncertain. The cost of living refused to stand still or to travel constantly in any one direction, but persisted in zigzaging horizontally and vertically until the graphic charts of living costs and wages submitted to the board by the fiendish statistical experts of both sides were crookeder than a Tennessee rail fence and made a man's two eyes feel like they were tied together in a hard knot.

While all this was in progress, the sun never set on a day when somebody in this grateful Republic did not cuss the board like a Cabinet member. If wages were increased, other employers of labor passed resolutions to abolish the board and the farmers roared about the increased freight rates. If wages were reduced, the employees bludgeoned the board as a set of heartless hyenas, devoid of the milk of human kindness, grinders of the faces of the poor, and tools of the capitalists, it apparently being the understanding of many of them that a board of this kind was set up to increase, not decrease, wages.

When a carrier was haled up for violating a decision of the board, tons of propaganda were sent out to convince the populace that the board was composed of a bunch of wall-eyed idiots for not being able to perceive that the carrier was a benevolent guardian of the employees when it deprived them of their legal rights.

As has already been shown, the board's calendar was not a matter of gradual growth; it commenced business with an extremely congested docket.

From April 15, 1920, to April 1, 1924, 12,543 disputed questions were referred to the Railroad Labor Board. Of these 11,228 have been disposed of. Of the total number of disputes, 865 did not reach the status of regularly docketed cases. The cases regularly docketed, as in court, number 11,678. Of these, 10,430 have been disposed of. In some instances, cases involving the same general question of wages or rules were consolidated under one docket and decision number.

The foregoing certainly does not show that the board has been slothful in its disposal of the questions submitted to it.

It is, of course, true, as shown by Mr. Robertson, the spokesman of the labor organizations, that many cases are still pending before the board and that some of them were submitted quite a while ago, This situation is due to several causes:

First. The enormous number of cases presented to the board.

Second. The fact that cases of major importance, such as wage and rules disputes, have been given precedence, and these involved hundreds of millions of dollars and could not hastily be dispatched. A great majority of the cases remaining are grievances cases, each affecting the rights of a small number of employees, usually one. Right now, the board is enjoying the first period it has ever had when no big, general questions of rules and wages were pending before it. As an evidence that this will enable it to expedite the cases on the calendar and remove the complaint, the fact is pointed to that during the month of March, the board has closed by decisions 179 dockets.

Third. The fact that some cases have been pending for a long time is further explained by the custom that the organizations have of pressing certain of their cases of preferential treatment out of their chronological order, presumably on account of their greater importance or urgency. Having accommodated the organizations by advancing these cases, the board should not be criticised for the necessary results.

Fourth. Mr. Albert Phillips, the representative of Mr. Robertson's own organization—Brotherhood of Locomotive Firemen and Enginemen—and a man of fine capabilities, had the misfortune, due to illness of himself and family, to be absent from the board 8 months out of 12, and at other times for a shorter period, and to this fact the employees, particularly Mr. Phillips's own organization of which Mr. Robertson is the head can not be heard to complain for it was one thing they could readily have remedied at any time by the resignation of Mr. Phillips and the appointment of a successor representing the same interests. This regrettable and unavoidable occurrence undoubtedly retarded in a large degree the work of the board and particularly the cases of the train and engine employees.

Fifth. It must be noted that there can never again be such a flood of disputes submitted to the board, though that need not be elaborated—it is absolutely obvious and will be conceded.

Mr. Robertson makes the point that the law and the board are failures because of the shop strike occurring in 1922.

There are several observations that suggest themselves in relation to this statement:

First. The employees fought the antistrike provision in 1920 and prevented its incorporation in the transportation act. This seemed to indicate that it was still their policy to strike when they failed by other means to obtain their demands, if they deemed such demands of sufficient importance.

Second. There is no Member of Congress and no well-informed man in the country who believes that the measure pending before your honorable committee at this time would result in the absolute prevention of strikes, but the transportation act of 1920 has greatly reduced the number of strikes, and this it has done in two ways: By adjusting disputes economically, conveniently, and satisfactorily to the men; by making it practically impossible for any organization ever to win a strike over the decision of a tribunal upon which all three parties are represented and before which the disputants are fully heard.

Third. The maintenance of way, signalmen, and clerks, on some carriers, all voted and threatened strikes at the same time the shopmen struck, but the transportation act, 1920, and the Railroad Labor Board were directly instrumental in furnishing them a satisfactory way to avoid striking. The clerks did strike on two roads, but lost the strike and destroyed their organization on these roads.

Fourth. In 1921, when the board made its first reduction in wages, all the organizations voted to strike; but none struck, because, in my judgment, they were quite fully convinced that the decision of the board was so obviously fair, just, and conservative that public sentiment would make a strike suicidal.

The train and engine employees at that time, October, 1921, came within about 36 hours of striking on a nation-wide scale on account of the wage reduction referred to. Some of their chiefs were kind enough to say in the public press, clippings of which I still treasure that I saved them from the strike. In remembrance of this they ought, it seems, without protest to this committee, to concede me the pleasure of slipping out about once every six months to make a speech in defense of the Supreme Court or any of the other institutions of this country or in criticism of such labor leaders as have apparently tried to deliver railway employees into an alliance with socialism in this country. The exercise of this occasional freedom does not detract from my admiration of the railway employees nor in the least bit diminish my ability to hold evenly the scales of justice.

In this connection I want to say, though it is embarrassing to me to make reference to these things myself, and I very greatly doubt the propriety of them being brought before this committee, considering the particular thing that is under consideration. I think that about the greatest compliment that could possibly have been paid to my individual work as a member of the Railroad Labor Board is the fact that the work itself has not been attacked, but merely the collateral or incidental fact that I have made a few speeches occasionally which did not set so very well upon the stomachs of certain people who are referred to not by name but by description.

Mr. Robertson read into the record on the occasion of his former appearance here an attack, from a yellow newspaper published in Cleveland, on me for having made a speech in which I undertook to defend the courts of the country, and the Supreme Court in particular, against some of the rather radical assaults, as I thought, that were being made upon the courts.

That speech I made as a lawyer before the Illinois Bar Association at a banquet given in honor of the Supreme Court of that State, and there is not a word of it that I do not stand by, behind, and back of to-day, just as I did then.

Mr. Robertson read into the record another criticism, not from a yellow newspaper in this instance, but from a pink magazine, criticizing the Labor Board in general in a very unjust and uncalled-for way.

I shall not make any defense of those things and no further reference to them.

Fifth. That this country would have been filled with successive strikes, some of them of great magnitude and destructiveness, had it not been for the work of the board, no well-informed man can question. Both sides were determined to fight and they did fight, but as a rule they threshed out their respective contentions before the board like good American citizens, and stood loyally by the decisions.

The complaint is made by Mr. Robertson that the board has adopted some unsound policies. The board has doubtless made some mistakes, but I note in a condensed way the principal ones he mentions:

First. That the board has held that the ability of a carrier to pay should in certain rare instances be given consideration in a secondary way in fixing wages. This was done, I believe, in three cases. There are still a few old-fashioned people in the world who believe that the wages paid in any industry must come out of its own revenues. If this is not true, the industry will not last long unless, of course, we have Government ownership, and the deficit can be passed on to the taxpayers, which, we are beginning to understand, means everybody.

The board was of the opinion that when the law commanded it to fix "just and reasonable" wages, it did not necessarily mean that all wages should be so standardized that the little jerk-water road struggling for life while it developed a new, raw country should pay the same wages as the big trunk lines. Of course, it will be conceded that if the standard wages on the big railroads were on the very edge of starvation, there would be no way to reduce them even a little bit for the struggling road, but that there is a good, generous margin between the standard railroad employee's wage and privation is universally known.

The board held, too, in these cases that the carrier's ability to pay could only be given secondary consideration, the first consideration being the sufficiency of the wage for the needs of the employee. This could hardly be termed a policy, but rather a few isolated exceptions to a general policy to the contrary.

Second. It is complained that the board adopted an unsound policy in failing to recognize the principle of the "living wage." As a matter of fact, the board has never fixed a rate of pay for any employee that was not, in the common-sense acceptation, "a living

wage," but it did insist that the measuring stick laid down by Congress for its use in establishing wages was the "just and reasonable" wage, a most flexible and comprehensive term within the bounds of which a board can find room to discharge every industrial and social duty to the employee.

The lowest figure presented to the board as "the living wage" was $1,750 a year for common labor all over the United States which, with existing differentials maintained for skilled labor, would have created for the carrier an annual deficit of $2,241,639,518 on the basis of the revenue of 1921.

It is interesting to note a few of the statements made by the expert statisticians as to the immediate impracticability of the living wage, in view of the fact that they sought to have the board declare in favor of the theory before they proceeded with their evidence and argument and then sent a telegraphic complaint to the President of the United States because the board declined to make a formal, preliminary announcement of its adoption of the so-called principle.

Now, I am going to quote what their own representative said on this subject in presenting the matter to the Labor Board, and ask that that be considered in connection with the criticism that was leveled against the board because of refusal to adopt this so-called policy.

Mr. Jett Lauck, perhaps labor's most distinguished expert, after an exhaustive presentation of the merits of the "living wage," gave utterance on cross-examination to the following statements:

> The rate of pay at which you will arrive from the use of the Budget would be appalling; that is, from the standpoint of a body which had determined to attempt to establish a minimum wage. That is the best, 72-cent rate; but in our judgment it would be incapable of application at the present time, owing to the fact that the board would not wish suddenly to inject a monkey wrench into the industrial wheels of the country.

Now, after having admitted before the board in his presentation, representing the employees as their chosen spokesman, that the adoption of that policy would inject a monkey wrench into the industrial wheels of the country, representatives of the employees still criticize the board for not having injected the monkey wrench into the industrial wheels of the nation.

Mr. Oliver, another statistical expert of the employees, stated:

> It is now time to define a proper standard of living applicable in these proceedings. Every answer is but a guess and a makeshift, and for our makeshift in these proceedings we shall accept the standard prescribed by the Bureau of Labor Statistics of the United States Department of Labor.

When this statement of Mr. Oliver's was read to Mr. Sturgis, another expert economist representing the employees, and he was asked if he subscribed to the thought, he answered, "I will subscribe to that; yes, sir."

Mr. Sturgis also said that "it is not practical to award the whole thing at one time," and that to do so "would be destructive."

A condensed analysis of the reasoning of those who sought to commit the board to that very definite thing which they termed "the living wage" would read as follows:

First. That the law commanded a "just and reasonable wage."

Second. That the wage could not be just and reasonable unless it were "the living wage."

Third. That the living wage must be based on a scientific budget providing support in health and reasonable comfort for a family of five.

Fourth. That the scientific budget upon which they insisted would cost 72 cents an hour for the lowest paid common labor.

Fifth. That this rate was so high that its adoption would be burdensome, impractical, "appalling," and "destructive"—a monkey wrench in the industrial machinery.

Sixth. That therefore the board must adopt, for the time being at least, a rate much lower than the just and reasonable wage commanded by the statute.

The board took the position that if the living-wage rate of pay were in fact the just and reasonable rate commanded by the law, the board would violate its official oath by fixing the rate at any lower figure. The board was quite convinced, however, that a rate confessedly so excessive that its adoption would be ruinous was not just and reasonable, nor could the board subscribe to a wage-fixing method which would produce such shockingly uneconomic results as to constrain its own proponents to discount them.

Third. The board's action in issuing the resolution of July 3, 1922, in connection with the shop strike is criticized, but neither Mr. Robertson nor any other man has ever placed his finger on an unsound principle in that resolution. The resolution served several good purposes. It assisted in securing new employees to help run the railroads in the interest of the public. It doubtless contributed a great deal toward preventing other employees from being drawn into the strike. This was likewise a public service. It gave warning to the carriers—this has always been overlooked by the employees, but it was one of the most important things in that resolution—it gave warning to the carriers not to take advantage of the situation and make arbitrary changes in wages and working conditions. This was in the interest of the employees themselves, and even such of the strikers as subsequently returned got the benefit of it. It reminded the new employees of their right to protect themselves under the transportation act by selecting those who should represent them before the Railroad Labor Board. The resolution did not, as has so often been said, outlaw anybody.

The shopcraft organizations which struck have never been denied recognition by the board, but the board's decisions have enabled them to reinstate their organizations on several roads, a thing they could not probably have done without the board. Only last week the board rendered a decision in favor of the shop crafts which denied to a carrier the right to discharge returned strikers because they had rejoined the organization. All of this, not because the board is trying to assist the shop crafts against the local shop associations, but because of its policy of absolute impartiality between organizations.

The resolution of July 3 has been read into the record. Its careful consideration is urged upon your honorable committee.

The statements that have been made here in regard to the violations of the board's decisions by carriers do not reflect the facts. It is entirely out of harmony with the record to say, in substance, that the carriers have, to any general extent, obeyed only the decisions favorable to them and ignored the unfavorable ones.

The great majority of the 201 Class I carriers have scrupulously obeyed the board's decisions. The wages and rules fixed by the board are almost universally effective throughout the country to-day.

The overdrawn statements on this subject are usually based on two fallacious propositions: This has caused them to make statements in regard to this matter that, with greater care and thought, perhaps, they would not have made. Those two things are as follows: First, all carriers that have been charged by the employees with violating a decision of the board are enumerated as violators, and, second, all carriers that adopted a course in conflict with the board's decisions are enumerated as violators although they may have subsequently conformed to the orders of the board.

Now, in that connection I might mention by way of illustration the case of the contract policy that was adopted by quite a number of railroads. Those carriers, in order that they might arbitrarily change the wages of employees, reducing them, and arbitrarily change working rules and conditions, entered into contracts with so-called "independent" contractors; and, of course, having done so, took the position that the independent contractor had control of wages and working conditions, and declined to confer and negotiate with the employees any further, on the ground that they were no longer employees of the railroads but were only independent contractors.

I want to say just there again, parenthetically, that that throws light on another thing: In so far as complaint has been made against the board's action on wages, that was a condition right there that afforded a very practical demonstration of the fact that the board's action had not been unjust against the employees.

Why? Because these carriers, without exception, were able to contract for the work and get it done and find an abundance of men that were willing to do it for lower wages and less favorable working conditions under the contractors than had been accorded to the employees by the Railroad Labor Board, and that has been the thing that happended everywhere.

But now getting back to the subject of violations of this act: All of those carriers are pointed to as violators of the board's decisions.

Now, that is not just, for the reason that after having declared that the letting of such contracts was in conflict with the board's previous decisions on wages and working conditions, and in conflict with the transportation act, practically every one of those carriers abrogated its contracts and restored to the men the wages and working conditions that had been fixed by the decisions of the Railroad Labor Board.

Of course, it will necessarily often happen that a carrier will take some step in connection with labor matters that is complained about by the employees, and the labor board will hold that the action of the carrier was in conflict with the law and decisions of the board. Then if that carrier conforms to the decision of the board and meets the complaint made by the employees, certainly it ought not to be enumerated as one of the carriers that has violated the board's decisions.

The CHAIRMAN. I do not understand that. You mean to say a carrier may be permitted to violate a decision of the board temporarily, but when this violation is brought up before the board, it then ceases to be a violation?

Mr. HOOPER. No, sir; I do not mean that exactly. I really mean what I said, and that was not what I said, Senator.

The CHAIRMAN. You said they may not be classified as violators.

Mr. HOOPER. No, sir; I will explain that. I have it explained in writing here, which will probably be more condensed than what I might say orally, but then I will revert to it if you want me to, Mr. Chairman.

The only fair criterion by which this matter can be judged is the action of the board under section 313 of the transportation act, which empowers the board to investigate an alleged violation and to formally declare it to be such.

Up to April 1, 1924, four different Class I carriers and three short lines had been formally and officially declared by the board to have violated its decisions. These roads are as follows:

Class I carriers: Erie Railroad Co., 14 violations; Pennsylvania Railroad system, 3 violations; Chicago & Alton Railroad Co., 1 violation; Fort Smith & Western Railway Co., 1 violation.

Short line railroads: Duluth, Missabe & Northern Railway Co., 1 violation; Interstate Railroad Co., 1 violation; and Butler County Railroad Co., 1 violation.

The carriers which have violated the decisions of the board in the most persistent and hurtful way are the Pennsylvania and the Erie. The course adopted by these two carriers is not approved by other railroad managements, and has not been followed by the management of any other railroad in the United States.

Mr. Robertson's mention of the New York Central Railroad Co. as a violator of the board's decisions is erroneous, that due to the fact that I mentioned awhile ago. The New York Central Railroad did in one or more instances take certain steps in connection with its labor that the board held to be in conflict with its previous decisions, and the New York Central in all of those cases rectified that situation, conformed to the board's decisions, and wiped out, as I consider it, the offense, because it must be remembered, Mr. Chairman, that during the early period of the Labor Board's activities as a new agency of the Government its jurisdiction had not been thoroughly and clearly established, and it necessarily followed that infractions of the law would be committed and that the board would have to interpret and construe the law from time to time. After the board had construed the law and a carrier conformed to that construction, I do not consider that it is fair to class that carrier as a violator of the board's decision.

Now, in the other case of the New York Central, that is a matter which is now in litigation and was referred to, I believe, by Mr. Richberg in his presentation this morning.

In connection with this subject, Mr. Robertson does the board a very inexcusable injustice when he seeks to leave the impression that the board's limited powers have been more vigorously used against recalcitrant employees than the violating railroads. The board, on the contrary, has utilized every atom of legal power and moral suasion at its command to make its decisions effective on all railroads and is well aware that its efforts under the law to direct public sentiment against violating carriers has occasionally seemed too harsh to them. The decisions of the board will show that its arraignment of such carriers has been more severe than anything it has so far found it neces-

sary to issue against employees. I will not burden the record with quotations, but can readily refer to the decisions.

And I challenge the representative of the employees or anybody else to consult the decisions of the Labor Board itself in order to verify the statement that I have just made. The board in the cases referred to upon the Pennsylvania and the Erie Railroads issued the most scathing denunciations that were within the proprieties surrounding a tribunal of that character and gave them the widest publicity in the most studious way that it possibly could, authorized and directed by the statute as I do not think that the representative of the employees can point to any instance where the board has ever leveled such criticism against a violating employee. Not even in the resolution of July 3, to which reference has been made, was there any denunciation of the employees who had struck, any criticism of their action.

The board recognized the fact then, and has always so stated, officially and otherwise, that the strike of the shopmen in 1922 was an absolutely legal strike, owing to the fact that they took every step required by the law for them to take before they rejected the decision of the board, which they had the right to do under the terms of the transportation act of 1920.

If the employees can indicate here or elsewhere wherein the board has failed to make use of any means within the law to enforce its decisions, the board will avail itself of the information and, if Congress will increase the board's powers, they will be properly and legally executed against any and all violating carriers.

The statement made to the committee that there is widespread dissatisfaction among the employees with the Railroad Labor Board is correct in one sense and incorrect in another.

That the work of the board has been beneficial to the employees is recognized by a large percentage of them, but it would require courage for them to make public admission of the fact, because their chiefs are seeking the abolition of the board. There would be few, if any, men who represent the organizations in presenting cases to the board who would subscribe to the statement that the attitude of the public group is not fair and judicial.

The whole truth of the matter is that most of the leaders of the organizations are so strongly opposed to the theory upon which the labor section of the transportation act of 1920 is predicated that they have never been able to assume a fair attitude toward the board, and neither the board as constituted at present, nor any board that may hereafter be constituted. We would be accorded fair treatment at the hands of the employees until the policy of the organizations has been changed in regard to the law, and until they have become reconciled to the fact, which is, has been, and will be demonstrated, that the board is functioning in an impartial way as between the disputants that appear before it.

They opposed the enactment of this provision and have fought it unceasingly ever since. If they had been contented to go along with the law and the board, and occasionally to say a good word for the board to their membership when it had rendered decisions of great importance and benefit to the men, the sentiment among employees would have been vastly different. But from the hour the law went into effect no opportunity has ever been lost by these leaders to belabor the board and the law to their membership.

I might say here by way of parenthesis that that policy is not confined to criticism of members of the board who have served for a considerable length of time, but recently a new member was appointed to the public group on the board, and without waiting to see what his attitude was going to be, without giving him the fair consideration of a test of his services on the board, the political organ of the organizations, published here in Washington, Labor, criticised that newly appointed member of the board, even before he had ever taken the oath of office, making, as it seemed to me, a rather severe attack upon him.

The resolutions of the train and engine men, heretofore read into the record, asking Congress to repeal the present law, contained the significant statement "That the fault lies with the plan or system probably more so than with the personnel of the board."

In order to destroy the law, it was deemed necessary to fight the board. No man can serve on any kind of board that deals with labor disputes and expect to escape the most violent criticism if he assumes an independent and unbiased attitude, lives up to his oath of office, and shows symptoms of the possession of guts.

The CHAIRMAN. That is not in the quotation, is it, what you just read?

Mr. HOOPER. No, sir; that was not in the quotation. That is my own language.

The Railroad Labor Board has rendered decision after decision sustaining the right of collective bargaining, protecting labor organizations against powerful assaults aimed at their destruction, upholding their rights of conference and negotiations, and, in fact, maintaining the principles most vital and sacred to labor, but only the scantiest of reference, if any at all, is ever made to these things.

Wide publication of these facts by representatives of the organization would be calculated to create a favorable impression in the minds of the employees in favor of the board and the law. Consequently they have very carefully refrained, as I personally know, from having been a constant reader of everyone of the magazines published by the organizations from publishing fair accounts of the board's work.

A few days ago I did read in a copy of the Railway Clerks' Magazine, one of the organizations among the proponents of this measure, a refreshing little statement, even guarded as it was. I quote it, as follows:

> Some good has undoubtedly been accomplished by the Labor Board functioning under the provisions of the transportation act. During the readjustment period following the return of the railroads to private operation there perhaps would have been more trouble between the carriers and employees had there been no board. It is probable that some of the carriers that have been so diligent in breaking up unions would have been more successful had it not been for the intervention of the Labor Board. It is not with the thought of destroying whatever good has resulted to both carriers and employees from existing legislation that the change is proposed, but to substitute something better.

In the same magazine appeared the following editorial:

> The board has become a deterrent to the natural economic power of an organized group of workers. It has at all times acted as a deterrent against hard-boiled managers to the advantage of the workers.

Now, I want you to mark that statement. That is an editorial written by one of the shrewdest editorial writers on railroad labor in the United States.

> It has also at times acted as a deterrent against hard-boiled managers to the advantage of the workers, especially among the groups not well organized, preventing wage reductions and the imposition of unfair working conditions. But granting that the board has established rates for certain groups of unorganized or poorly organized employees that are higher in some instances than might have obtained otherwise, that kind of a paternalistic policy will not benefit the wage earners in the long run. The same group of workers solidly organized could have secured more than they received at the hands of the Labor Board.

Although this magazine is always full of criticisms of the Railroad Labor Board, here in the paragraphs quoted the bright but partisan young editor loosens up and confides the whole inwardness of the situation in connection with this legislation. He says in effect: The Labor Board has been a right good old board; it has protected the weak against the strong; it has saved the country trouble during the readjustment period; but it stands in the way of the exercise of our natural economic power, that is, our power to strike and to tie up the country's transportation.

This brings us to a brief discussion of the purpose and the provisions of the Howell bill.

The main, outstanding, overshadowing purpose of the Howell bill is to make it easier for railway employees to enforce their demands by strikes, and, to this end, to exclude the public from all influential participation in or supervision over the adjustment of labor controversies. The enactment of this measure would constitute the longest step backward that has ever been taken in Federal legislation. In my humble opinion, it would prove a curse to the public, the railroads, and the employees.

According to the authoritative quotations above given, those that I read a moment ago, it would denature the present law; eliminating from it the power which it admittedly contains to deter domineering managements from tyrannizing over their employees and to deter organized employees from enforcing their demands by trampling the public under foot.

It is not claimed that the labor board possesses the absolute power to prevent these things, but it is said in plain language that it possesses the power to deter both railroad managements and railroad organizations from precipitating trouble arising from their controversies.

The present transportation act asserts the right of the producers, shippers, and consumers to a voice in the adjustment of railway labor controversies with a twofold end in view: First, that strikes may be prevented; and second, that railway managements may not be dragooned by violence or the threat of it into yielding to unconscionable demands the financial burden of which will be transferred to the shoulders and backs of all other people, including labor itself in other industries. The people of the United States do not want the railway industry to get into the condition in which the coal industry is popularly believed to be, where force and collusion have combined to destroy public confidence in all wage agreements and, consequently, in the fairness of the prices the people pay for coal.

Now let me give what I consider a close-up view of the Howell bill:

First. It wipes out a board composed of equal representation of the carriers, the employees, and the public, and having jurisdiction of all labor controversies, and substitutes therefor, four adjustment boards having jurisdiction of grievances only.

Second. It establishes no board or tribunal with jurisdiction of the big fundamental questions of wages and working conditions, the questions which usually provoke strikes.

Third. It is true that it provides for arbitration boards to pass upon questions of wages and working conditions, but the submission of a dispute to an arbitration board is purely voluntary on both sides, and the bill leaves the implication that no odium would attach to either party for refusing to arbitrate.

Now, it was said this morning in discussion of this very point that odium would adhere to the party refusing to arbitrate. That I think can hardly be said, in view of what happened in connection with the dispute that resulted in the enactment of the Adamson law when mediation and conciliation was then in effect, and when even the mediation and conciliation urgently and persistently interposed by the President of the United States himself failed to settle the difficulty, and when all offers of arbitration under existing laws were absolutely rejected.

Fourth. It sets up a board of mediation and conciliation, composed of five members, without any power to pass upon disputes, but with the power to mediate and conciliate, if that can be termed a power.

This board of mediation is also empowered to appoint the "balance-of-power" member or members on arbitration boards.

Fifth. The most remarkable evidence of the purpose to completely exclude the public from participation in the adjustment of controversies is shown in the provision covering the eligibility and appointment of the members of the board of mediation and conciliation. Instead of including an express provision making the partisans of the carriers and employees both ineligible to membership on this board, there is an express provision making them eligible. In fact, the eligibility of members of the board of mediation and conciliation is identical with the eligibility of the representatives of the carriers and the employees on the present Railroad Labor Board. This provision in a bill which has been carefully redrafted six times by experts means that the employees have deliberately planned to seek membership on such board of mediation and conciliation, if it should ever be created, and it is my information that certain employees are already prospective aspirants for such appointments.

Of course, if the President appointed one of them on the board, he would have to strike a balance by appointing a representative of the carriers, and the result would be either a tri-partisan board or practically a bi-partisan board similar to the adjustment boards. In either event, the usefulness of the board would be absolutely destroyed both for mediation and for the appointment of arbitrators.

Sixth. The operations of these adjustment boards and the Board of Mediation and Conciliation are conducted without publicity, and when their efforts fail and a strike is threatened or results the public has no authorative way in which to acquaint itself with the facts upon which a potent public opinion can be predicated.

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Seventh. The Howell bill attempts the undemocratic and un-American thing of confining representation on the adjustment boards to certain labor organizations and excludes many other rival organizations. The constitutionality of such a discrimination might well be doubted. Certainly it is not in keeping with our ideals of freedom.

The favored organizations are as definitely designated by description as they could be by name. A previous draft of the bill, as I understand, set them out by name, but legal advice doubtless softened and camouflaged this crude injustice.

Ths history of this country shows that labor organizations are not permanent, but are subject to change. The Railroad Labor Board has established the American plan of permitting the employees to settle by secret ballot their choice of representation.

It must be remembered, too, that the carriers have not yet been consolidated and that under the law each of them makes agreements with its own employees.

Eighth. Under the bill there would be a new arbitration board for each new dispute. The nonpartisan member of these boards would be likely to be without experience and would function under great disadvantages. It would be difficult to secure the services of satisfactory men who could devote the time necessary to the study and disposition of such technical and unfamiliar matters. This has always been one of the unsatisfactory features of such arbitration.

The present law provides a more workable scheme by setting up a permanent board upon which there will be always experienced public members, as well as technically trained men from both sides of the dispute. There need be no fear that the parties will cease to refer their disputes to a permanent board. Naturally, precedents will be established on many matters of detail that will discourage the submission over and again of the same dispute. It is, however, advantageous to all parties that such stabilizing process should take place.

As to the revision of rules, this is a matter of growth and development just like the laws of a State, and a permanent board would always be responsive to this idea. That fact has been shown by the record and activities of the present Labor Board, because it has reversed itself, and that in favor of the employees in every instance, in regard to the adoption of rules and working conditions, upon fuller information and upon opportunities to observe the effect of rules that had previously been awarded in disputes.

Ninth. The machinery of the bill is cumbersome, complicated, and expensive. Instead of a board with nine members, drawing aggregate to salaries of $90,000 per year, it sets up 5 boards of 45 members, drawing aggregate salaries of $340,000 per year, with liberal provisions for all the independent overhead expenses for each board that are now authorized for the railroad Labor Board, and that point is not answered by the statement that was made this morning that adjustment boards usually had very simple machinery. That is true where the parties are paying for it themselves, but I hardly think it could be predicted that it would be the effect of a law which placed the burden of that expense upon the Public Treasury.

On top of this would come the great expenses of arbitration boards, the salary of an arbitrator not being set, but, in a former draft of the bill, as I am informed, fixed at the rate of $25,000 per year. Did you not have that in one of your bills?

Mr. RICHBERG. I do not know of any such bill. I do not know as it has anything to do with it. I mean what some one may have suggested in the past hasn't anything to do with the present bill, so far as I can see.

Mr. HOOPER. No; but it is a little bit interesting, Mr. Richberg, to see something of what was included in those previous drafts of this measure.

Mr. RICHBERG. Governor, if you will permit me to interrupt, I will say that there never has been a bill passed by the employees fixing the salary of an arbitrator.

Mr. HOOPER. Of course not, for a whole year, but at the rate of so much per year.

Mr. RICHBERG. In no way whatever.

Mr. HOOPER. After the conclusion of my presentation here, just for your private information, I will show you a copy of one of your bills which does include that provision. However, it is not a matter of any great moment, Mr. Chairman, whatever may have been thought in that connection; it would not be binding on this particular bill here.

Tenth. Many other details might be mentioned, but let us close them be calling attention to the truly remarkable composite effect of the measure.

It legalizes the perpetuation of every rate of pay and every working rule now in existence. Not one of them could ever be changed by or for a carrier, regardless of what unexpected changes might take place in conditions, unless such revision were made by an arbitration board, and no such arbitration could be had without the consent of the employees.

Under the present law the Railroad Labor Board has ruled, in effect, that a carrier must not arbitrarily revise rules or reduce rates of pay. That is substantially what the Howell bill says, but the board is always open to hear a petition either for an increase or a decrease, and the opposing party does not have to consent to the hearing as would be the case if these arbitration boards were set up in the shape that they are provided for in the Howell bill.

It would not be difficult for me to point out certain defects in the present law that could be remedied by amendment, the effect of which would be to further guarantee the rights of the employees and make the law bear somewhat more equally upon the two parties.

It would never occur to me, however, to demolish the present law and substitute for it a measure so partisan in its nature, so destitute of all protection of the public, and so certain to transform the present peaceful conditions into disorganization and discord as would the pending measure.

Gentlemen of the committee, having been invited here, as I understood, to discuss the pending bill, I did not know whether it would be proper for me to presume to offer any suggestions as to the present bill, although I believe you have asked these questions of previous witnesses before your committee.

The CHAIRMAN. I would like to correct the statement of Mr. Hooper. I do not think the committee invited Mr. Hooper. I do not object to him being here, but I think Mr. Hooper invited himself.

Mr. HOOPER. Yes; but you courteously expressed your pleasure that I was to appear.

The CHAIRMAN. After you requested it.

Mr. HOOPER. I do not understand, Mr. Chairman, that you are now expressing displeasure?

The CHAIRMAN. No, sir; I did not say that. I said everyone came here voluntarily.

Mr. HOOPER. I believe, though, Mr. Chairman, if you will pardon me for reverting to that for a moment, the board did receive a letter from the secretary of this committee notifying it of its right to appear here, and perhaps not requesting it, too, but giving it the opportunity.

The CHAIRMAN. The chairman of the whole committee may have sent out such a letter.

Mr. HOOPER. He did.

Senator GOODING. I am sure the committee is very glad to have you appear before it.

Mr. HOOPER. I have three suggestions as to the amendments to the present law. They are not lengthy, and if it is not presumptous, I can read them, or I can refrain from it.

The CHAIRMAN. I would like to hear them.

Senator GOODING. How long will it take? I will have to go very soon.

Mr. HOOPER. I think only a very few minutes; less than two pages of it.

Senator GOODING. All right.

Mr. HOOPER. Adjustment boards:

The employees are correct in their contention that the failure of the carriers and the employees to agree upon the establishment of adjustment boards has substantially detracted from the effectiveness of the law. The Labor Board is in sympathy with this view, because it has keenly felt the need of the help that it would have derived from such adjustment boards. Of course, this statement carries no implication as to the merits of any particular disagreement that may have arisen as to the setting up of an adjustment board.

It is in evidence in these hearings that the main point of disagreement between the carriers and the employees in connection with this matter is as to the territorial scope of the proposed boards. The law provides that adjustment boards may include one carrier and one organization or any number of carriers and organizations.

The Labor Board held, soon after its organization, that it had no jurisdiction over a dispute as to whether a proposed adjustment board should be established.

Taking that view of the matter, that that question having been dealt with by the statute, that the board could be argued to show the authority and try to add something to what Congress had enacted, my suggestion would be that the Labor Board be given express jurisdiction of a dispute of this nature, so that it might fully consider and pass upon the respective contentions of the parties as to the establishment of any such adjustment board, but that the law as to such boards otherwise remain as it is.

The wisdom, justice, and practicability of the establishment of any proposed adjustment board or boards could be decided upon after a thorough investigation of the matter.

PRELIMINARY STEPS COMPULSORY

While the transportation act does not make a decision of the Labor Board legally enforcible, the steps leading up to such decision are mandatory. The statute says that in connection with any dispute the parties shall confer and negotiate and shall, if they fail to agree, submit the controversy to the board.

These mandatory provisions have been disregarded and evaded by a number of railroads, with consequent disadvantage and injustice to the employees. In one instance only the employees on one road ignored these imperative requirements of the law and went on strike without first coming to the Labor Board with their grievance. This, by the way, is the only really illegal strike that has occurred since the transportation act went into effect. I refer to the strike on the Virginian Railroad, which was mentioned a moment ago.

The law should be so amended as to prevent the violation or evasion of the provisions which command conferences and negotiations to adjust a dispute, and the submission of it to the Labor Board. Neither the carrier nor the organization of employees should be permitted to take arbitrary action until these requirements have been complied with, for in them lies the principal efficacy of the law. They afford four strong preventives of strikes: First, conference between the parties; second, an opportunity to make full, public presentation of controversies; third, the decision of a tri-party board that may prove acceptable; and fourth, "cooling time," something which has saved all of us from many mistakes in life.

No wiser and more just provisions were ever written into law. They were meant to be mandatory and they should be backed up by appropriate penalties. This is of vital importance to the employees particularly, and it is even more important to the public.

Choice of representatives:

In connection with the foregoing recommendation, there necessarily arises the question of representation of employees in conferences, negotiations, and agreements.

The law having commanded the carrier to confer with the representatives of the employees, the carrier should not be permitted to evade the law by conferring with somebody else under the pretense that it is conferring with the employees' representatives. If this is done, and it has been done, the very vitals of the law are cut out and cast away. The lawful conference has not been held until it is held with the chosen representatives of the employees. A carrier should not be permitted to set up or collude in the setting up of a bogus minority organization which does not represent the majority of its employees. Such a performance is a violation of the letter and spirit of the transportation act; it is contrary to the genius of our free institutions; it is inimical to peace in the railway industry, and it is, therefore, in contravention of sound public policy. This right of the employees should be protected by explicit provisions with the sanction of appropriate penalties.

These simple amendments to the present law would make it vastly more satisfactory to the employees and more serviceable to the public, without any encroachment upon the rights of the carriers. Such amendments would not involve the overturning of the present system of adjustment of controversies and the hasty adoption of an obviously weak substitute.

Mr. RICHBERG. Mr. Chairman, I would like to ask, merely for information; this is not controversial: I do not understand the method of computing the number of cases before the board, because something like 12,543 disputed questions were stated to have been decided. I think the docket number of decisions at the present time is two thousand and something, and it is simply a question of how these disputes are computed, which I do not understand. I think it may be rather confusing.

Mr. HOOPER. The chairman will permit me to answer? You are in error, Mr. Richberg, as to the docket number, as to the number of docketed cases being two thousand and something.

Mr. RICHBERG. The number of decisions?

Mr. HOOPER. The number of decisions so far has been considerably in excess of 2,000. The docket numbers, though, the number of docketed cases, are as stated in the statement made by me this afternoon.

Mr. RICHBERG. You mean that a decision will cover a great many of what you call docketed cases?

Mr. HOOPER. And I so stated.

Mr. RICHBERG. I just wanted to get clear how they are computed.

Mr. HOOPER. The disputes came from many railroads. Some of these disputes involved in a general way the same questions, and therefore certain of the cases were consolidated for the convenience of the parties.

Senator GOODING. I have not any questions, Mr. Chairman.

The CHAIRMAN. I think the next hearings are set for some organizations that were promised a hearing Monday morning at 10.30; so, if there is nothing more, we will adjourn until 10.30 Monday morning.

(Accordingly, at 4.05 o'clock p. m., the subcommittee adjourned, to meet on Monday, April 7, 1924, at 10.30 o'clock a. m.)

ARBITRATION BETWEEN CARRIERS AND EMPLOYEES—BOARDS OF ADJUSTMENT

MONDAY, APRIL 7, 1924

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE COMMERCE,
Washington, D. C.

The subcommittee, met pursuant to adjournment at 10.30 o'clock a. m., in the committee room, Capitol, Senator James Couzens presiding.

Present: Senators Couzens (chairman), Dill, Gooding, and Howell.

The CHAIRMAN. The committee will come to order. Who is the next gentleman who desires to make a statement to the committee?

STATEMENT OF C. E. ANDERSON, REPRESENTING ROADS IN THE WESTERN AND SOUTHERN TERRITORY OF THE SHOP CRAFTS

The CHAIRMAN. Give your name and whom you represent.

Mr. ANDERSON. My name is C. E. Anderson; I represent practically all of the roads in the western and southern territory of the shop crafts that are independent of the standard organization, and in no way affiliated with the American Federation of Labor.

Senator GOODING. What number do you represent?

Mr. ANDERSON. Approximately 140,000.

Senator GOODING. On what railroads?

Mr. ANDERSON. Senator, I have prepared a statement in which that information appears.

The CHAIRMAN. We desire to expedite the hearing as much as possible, Mr. Anderson, and you may proceed as rapidly as possible.

Mr. ANDERSON. We appreciate the fact that your time is limited, and owing to that, and also in order to avoid undue reiteration, I have prepared some notes of the statement which I desire to submit.

In the first place, I submit the authorization for my appearance here, pursuant to a conference at Chicago that was held by some of the heads of departments.

(The paper referred to is here printed in full, as follows:)

CHICAGO, *April 3, 1924.*

We, the representatives of the several shop-craft associations and subordinate officials, in a meeting regularly organized in the city of Chicago, do hereby delegate the following committee: C. E. Anderson, J. W. Gibbons, A. G. Fleck, to represent us before the Interstate Commerce Committee of the House and Senate of the Sixty-eighth Congress, and instruct them to do everything honorable in their power to defeat Senate bill No. 2646.

P. A. Steers, president Maintenance of Way Employees and Railway Shop Laborers' Association, 1,800 members; C. E. Wood, president Mechanic Super-

visors' Association, Union Pacific system, 500 members; R. R. Hunter, general secretary-treasurer Shop Crafts, 9,000 members, Great Western Railway; N. B. McMillan, president Miscellaneous Employees' Association, Union Pacific system, 3,500 members; J. A. Duncan, Shop Crafts' Association, Wabash, 4,000 members; F. J. Reynolds, general chairman Missouri Pacific Mechanical Department Association, 9,000 members; H. G. Eddy, system general president Chicago, Rock Island & Pacific, 8,000 members; L. J. Wilson, chairman 12 city Terminal Railway Shop Crafts, 1,800 members; P. O. Doyle, secretary-treasurer Telegraph & Telephone Linemen, 200 members; L. E. Butler, system chairman Machinists, Santa Fe; Clyde Sheafor, chairman Blacksmiths, Santa Fe, 18,000 members; E. J. Scott, Association Shop Crafts Employees, 9,000 members; J. W. Gibbons, secretary-treasurer Supervisors' Association, Santa Fe Railway system, 700 members; E. W. Kilgore, general chairman northern district Shop Crafts Protective League, Southern Pacific Co. (Pacific system); D. O. Herrick, president of Association of Supervisors, Southern Pacific Co. (Pacific system); Penn J. Mays, general chairman southern district Shop Crafts Protective League, Southern Pacific Co. (Pacific system).

Senator GOODING. Is this a statement on the part of these 140,000 workmen?

Mr. ANDERSON. Yes, sir.

Senator GOODING. They are organized workmen are they?

Mr. ANDERSON. They are organized as independent organizations of the different units of the different systems.

Senator GOODING. Are they affiliated together in any way?

Mr. ANDERSON. Absolutely not.

Senator GOODING. They are all independent, on each road?

Mr. ANDERSON. On each road or system.

Senator DILL. Are they what you call company unions?

Mr. ANDERSON. Yes, sir.

Senator DILL. As distinguished from the other unions?

Mr. ANDERSON. Yes, sir. You understand we do not recognize that term.

Senator DILL. Yes; I use the term in that connection.

Mr. ANDERSON. I do not know that it is necessary to enumerate all of these parties as I have submitted the paper for the record.

I appear before your committee in behalf of approximately 140,000 employees in railroad service affected by Senate bill 2646, who are not members of the 20 organizations comprising the proponents of said bill. These employees are located in the Western States and hold membership in the following-named organizations which I am authorized to represent: A. T. & S. F. system—associations of machinists, boilermakers, blacksmiths, sheet-metal workers, electrical workers, carmen, their helpers and apprentices, associations of stationary engineers, firemen and oilers; C. B. & Q.—mechanical department association; C. & A.—associations of machinists, boilermakers, blacksmiths, sheet-metal workers, electrical workers, and carmen; C. & E. I.—associations of maintenance of equipment department employees, signal and telegraph department employees; C. & S.—association of mechanical department employees; C. R. I. & P.—associations of mechanical and power plant employees, telegraph and telephone linemen, mechanical foremen; D. & R. G.—mechanical crafts' association; E. P. & S. W.—shop employees association; Wabash—shop employees' association; G. N.—associations of shop employees, telegraph and telephone electricians, stationary engineers, firemen, and oilers; St. L. S. W.—associations of metal craft employees, firemen, and oilers; N. P.—associations of shop employees, telegraph and telephone, maintenance and construction employees; Soo Line—shop employees' association; S. P. & S.—shop employees' association; G. C. L.—association of shopmen; H. B. & T.—association of shopmen; U. P. system—associations of shop employees, miscellaneous employees, maintenance of way foremen, mechanical supervisors, train dispatchers; U. P. R. R.—train dispatchers association; O. S. L. R. R.—clerical employees association; L. A. & S. L. R. R.—yard masters' association; I. & G. N.—association of mechanics; M. K. & T.—association of shop employees T. & P.—association of mechanical department employees; Trans-Miss. Terminal—association of mechanical department employees; N. W. P.—associations of shop crafts, dispatchers, maintenance of way station and stores department, clerical employees; S. P. (Pacific)—shop craft protective league, association of supervisors (of mechanics of locomotive and car departments); Mo. P.—mechanical department association; S. P. (Atlantic)—associations of shop craft employees, clerical employees, general office employees (employees' committee), supervisory foremen, mechanical department (employees' committee), yardmasters (employees' committee), marine employees (employees' committee); K. C. S.—machinists, blacksmiths, boilermakers, sheet metal workers, electrical workers, carmen, stationary engineers, clam-shell operators, firemen and oilers' associations of America, supervisors' association, maintenance of way foremen; St. L. S. F.—associations of metal craft and car department employees, mechanical supervisors; M. & St. L.—system associations of shop craft employees, general office employees; K. C. T.— associations of mechanical and car department employees, clerks, T. & B. V.—associations of shop crafts, clerks; F. W. & D. C.—association of mechanical department employees; I. C.—shop crafts association.

I am herewith handing your committee a statement which I shall respectfully request be inserted in the records of this hearing. The statement shows the names of the several Western States with the names of the various associations or organizations represented and the total membership of the several associations or organizations in each respective State, also the railroads on which these associations or organizations represent the employees.

(The statement referred to is here printed in full, as follows:)

Railroad	Total	Alabama	Arizona	Arkansas	California	Colorado	Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Michigan	Minnesota	Mississippi
Shop craft employees represented by independent associations not affiliated with any national labor organization																
U. P. system	13,000				650	925	1,850			650	1,050					
A. T. & S. F	18,043		430		3,959	1,226		784		691	5,726		3			
C., B. & Q	11,329					680		3,585		1,876	1				131	
C. & A	2,116							1,841		275						
C. & E. I	2,313							1,873	440							
C. & S	608					562										
C., R. I. & P	8,990			567		46		3,083		1,450	1,541		8		115	
D. & R. G	2,930					2,150										
E. P. & S. W	816		93													
F. W. & D. C	607															
Gt. Nor	8,795									114					3,582	
G. C. L. & H. B. & T	710												230			
I. C	12,003	161						5,956	118	888		1,180	596			1,572
I. & G. N	917															
K. C. S	1,234			25							550		371			
K. C. T	627															
M. & St. L	1,100							75		475					520	
M., K. & T	4,803										1,267					
Mo. P	6,786			2,340		54		235			935		187			
Nor. P	5,930						17								2,383	
N. W. P	477				477											
St. L.-S. F	6,346	174		233							418					113
St. L.-SW	992			751				35								
Soo Line	2,981							149						112	1,379	
S. P. (Pacific)	13,439		887		9,922											
S. P. (Tex. & La.)	5,606												1,180			
T. & P	2,043												142			
S. P. & S	450															
Tr.-Miss.-Tml	184												184			
T. & B. V	230															
Wabash	4,540							2,500	500	40				150		
Total	140,939	335	1,410	3,916	15,008	5,643	1,867	20,116	1,058	6,459	11,488	1,180	2,901	262	8,110	1,685
Stationary engineers, firemen, and oilers represented by independent associations not affiliated with any national labor organization																
A., T. & S. F	307		20		41	24		16		9	74					
K. C. S	296			15							82		83			
Nor. Pac	1,215						8								391	

St. L.-S. W	23			11				4								
Total	1,841		20	26	41	24	8	20		9	156		83		391	
Association of telegraph and telephone electricians																
Gt. Nor	58														14	
Association of telegraph, telephone, maintenance and construction employees																
Nor. Pac	79						3								10	
Association of telegraph and telephone linemen																
C., R. I. & P	95			3		1		17		11	32		1		1	
Association of signal and telegraph department employees																
C. & E. I	105							72	33							
Association of Supervisors (of mechanics in locomotive and car departments)																
S. P. (Pacific)					39				47				29			
S. P. (Tex. & La.)												143				
Mechanical Foremen's Association																
C. R. I. & P	19		8					52		1	1	10				
Mechanical Supervisors' Association																
St. L.-S. F	174							55			19	22				
Yardmasters' Association																
C. R. I. & P	17		3					14				4				
Yardmasters' Association (Employees' committee)																
S. P. (Tex. & La.)												33				
Marine employees (employees' committee)																
S. P. (Tex. & La.)	71												71			

Railroad	Total	Alabama	Arizona	Arkansas	California	Colorado	Idaho	Illinois	Indiana	Iowa	Kansas	Kentucky	Louisiana	Michigan	Minnesota	Mississippi
Dispatchers (employees' committee)																
N. W. P	8				8											
Maintenance of way foremen's association																
K. C. S	192			33							12		48			
Maintenance of way association (employees' committee)																
N. W. P	83				83											
Clerical employees represented by independent associations not affiliated with any national labor organization																
K. C. T	218															
M. & St. L	350															
N. W. P	384				384											350
S. P. (Tex. & La.)	2,886												677			
T. & B. V	75															
Total	3,913				384								677			350
Grand total [1]	153,442	344	1,454	4,016	15,928	5,673	1,878	20,367	1,091	6,562	11,797	1,180	3,821	262	8,884	1,690

[1] Grand total all States includes 4,500 employees that can not at this time be segregated by States.

Railroad	Missouri	Montana	Nebraska	New Mexico	Nevada	North Dakota	Ohio	Oklahoma	Oregon	South Dakota	Tennessee	Texas	Utah	Washington	Wisconsin	Wyoming
Shop craft employees represented by independent associations not affiliated with any national labor organization																
U. P. system		50	2,700		400				1,650				950	425		1,700
A., T. & S. F	47			2,750				332				2,095				
C., B. & Q	1,475		2,759							85					258	479
C. & A																
C. & E. I																
C. & S																46
C., R. I. & P	480		250					1,209		114	7	120				
D. & R. G				20									760			
E. P. & S. W				146								577				
F. W. & D. C												607				
Gt. Nor		1,658				749				40				2,047	605	
G. C. L. & H. B. & T												480				
I. C										4	1,528					
I. & G. N												917				
K. C. S	149							84				55				
K. C. T	627									30						
M. & St. L												1,988				
M., K. & T	1,204							344								
Mo. P	2,763		272			287								2,126	19	
Nor. P		1,098						985			364	445				
St. L.-S. F	3,608											143			1,222	
St. L. SW	63					119										
Soo Line					824				970				836			
S. P. (Pacific)												4,426				
S. P. (Tex. & La.)												1,901				
T. & P									110					340		
S. P. & S												230				
T. & B. V																
Wabash	1,000						350									
Total	11,416	2,806	5,981	2,916	1,224	1,155	350	2,954	2,730	273	1,899	13,984	2,546	4,938	2,104	2,225

Railroad	Missouri	Montana	Nebraska	New Mexico	Nevada	North Dakota	Ohio	Oklahoma	Oregon	South Dakota	Tennessee	Texas	Utah	Washington	Wisconsin	Wyoming
Stationary engineers, firemen, and oilers represented by independent associations not affiliated with any national labor organization																
A., T. & S. F	3			50				18				52				
K. C. S	49							51				16				
Nor. Pac		292				108								413		3
St. L.-S. W	8															
Total	60	292		50		108		69				68		413		3
Association of telegraph and telephone electricians																
Gt. Nor		10				7				2				24	1	
Association of telegraph, telephone, maintenance and construction employees																
Nor. Pac		26				7								33		
Association of telegraph and telephone linemen																
C., R. I. & P	4		1					20		1		3				
Association of signal and telegraph department employees																
C. & E. I																
Association of supervisors (of mechanics in locomotive and car departments)																
U. P. system [1]	500															
S. P. (Pacific)	544		24		405											
S. P. (Tex. & La.)	173												30			
Mechanical Foremen's Association	717															
C. R. I. & P	356			19		4		107		63	65		1		6	
Mechanical Supervisors' Association																
St. L.-S. F	320	9		12								24				5

Yardmasters' Association																
C. R. I. & P	123			7		1		35		20	20				2	
Yardmasters' Association (employees' committee)																
S. P. (Tex. & La.)	42												9			
Miscellaneous Employees' Association																
U. P. system [1]	2,500															
Maintenance of Way Foremen's Association																
U. P. system [1]	1,500															
Marine employees (employees' committee)																
S. P. (Tex. & La.)																
Dispatchers (employees' committee)																
N. W. P																
Maintenance of way foremen's association																
K. C. S	50							30					19			
Maintenance of way association (employees' committee)																
N. W. P																
Clerical employees represented by independent associations not affiliated with any national labor organization																
K. C. T	218															
M. & St. L													2,209			
N. W. P													75			
S. P. (Tex. & La.)																
T. & B. V																
Total	218												2,284			
Grand total [2]	11,958	3,134	5,993	2,966	1,263	1,277	350	3,194	2,777	277	1,919	16,570	2,575	5,408	2,105	2,228

[1] Figures by States not available at time of preparation of this statement.
[2] Grand total all States includes 4,500 employees that can not at this time be segregated by States.

Mr ANDERSON. It has been stated that the bill under consideration by your honorable committee has been the subject of 18 months' study on the part of the representatives of the employees whose wages and working conditions it affects. This statement is far from being entirely correct, as it is obvious from the above that a very substantial number of employees have been entirely ignored. The employees whom I represent comprise a majority of those in railroad service in some States, and we are unable to find any representative who had any part in the preparation of this proposed bill, in fact it is only very recently through the public press that we became aware of its proposal. The time available to study it has been so short that we must content ourselves with a brief reference to the important particulars in which it either fails to protect or specifically provides for a procedure of handling matters of wages and working conditions adverse to our interests.

No law that Congress may enact with reference to the important matter of employees relations on railroads will be effective in the amicable adjustment of disputes growing out of wages and working conditions which does not recognize the right of that vast army of railroad employees who do not belong to organizations interested in the enactment of the proposed bill into law. But we have so much confidence in the spirit of democracy upon which our American Government is based that we know Congress will not consider it seriously without relation to the un-American features we will point out.

I am not before your committee to oppose the bill in all of its details nor can I oppose it as a medium of insuring justice to employees in so far as it pertains to giving the employees certain fundamental rights in the adjudication of controversies over working conditions. But these fundamental rights were guaranteed to American labor a long time ago by negotiation, by voluntary agreement, and by legislation and have now become sacred to every railroad worker. Railroad managements a long time ago recognized the right of employees to a voice in the negotiation of their working conditions, to a voice in settling disputes arising over the application of rules so agreed upon and to representation on adjustment agencies or tribunals established to decide disputes not settled in conference. The transportation act very adequately protected these rights and established a tribunal to guard them and backed this tribunal up with the powerful force and influence of public opinion. The proposed bill contemplates the preservation of these rights to the employees, but is designed to give certain labor organizations a complete monopoly on them. This is almost equivalent to taking them away. If employees can only exercise their right to such well-recognized and established principles as an equal voice with the managements of railroads on matters of wages and working conditions through other than representatives of their own choice, they have no rights at all. We have heard a great deal in this country about monopoly of one kind or other and every instance of it that can be proven detrimental to the public interest becomes an object of bitter attack by the public and particularly by that part of the public comprised of industrial workers. To find a proposition receiving serious consideration that is designed to specifically create monopolies is inconceivable.

That the monopolization of labor representation is the principal reason for the enactment of this bill is found not only in the bill but in the supporting arguments advanced in behalf of its enactment. First, the bill proposes machinery that is less satisfactory than that contained in the existing legislation, machinery that considerable study and experience had heretofore shown to be inadequate. It recognizes the fundamental right of negotiation between representatives of employees and carriers, but leaves both of these parties without a conclusive agency for disposition of disputes not so disposed of. Title III of the transportation act provides that it shall be the duty of carriers and their employees to exert every reasonable effort to avoid interruptions to the operation of railroads growing out of disputes over wages and working conditions. This is an obligation imposed upon railroad managements which they dare not ignore and they know that they must meet with the representatives of the employees or face the fire of wrath at the bar of public opinion. Nothing could be more positive in guaranteeing employees the opportunity to settle disputes or differences of opinion. The proposed law offers no improvement upon this mandate.

The present law provides that each and every dispute—not some of them—shall be considered and if possible decided in conference, and if not so decided they shall (not may) be referred by parties thereto to the Labor Board. The directions contained in this language are clear and unmistakable. The proposed bill is mandatory only in the matter of disputes pertaining to application of rules of agreements already made, and for this class of disputes it provides that they shall be submitted to adjustment boards on which a large number of employees and particularly my constituents are not even represented. If these adjustment boards do not decide disputes, and with equal representation of management and employees this is always possible, it provides for submission of such undecided questions to a board of mediation and conciliation, and for the further submission of undecided questions to a board of arbitration. To the constituency I represent the present law is much more satisfactory.

We are not only assured of a disposition of our case with reasonable promptness, but with the smaller expense of submitting it to one tribunal and with the assurance that some disposition will be made of it. This is all we or any man or group of men can expect on any question. Every day thousands of cases are considered by the many courts throughout the nation or decided by arbitrators acting in the form of individuals or groups for the purpose of making decisions. We submit to such courts or agencies our opinions or views arrived at by our judgment of the matter in controversy or by the combined best judgment of a group of interested parties. We must have confidence in the integrity and honesty of such courts or tribunals and if we have not, we should take the steps that every law provides for removing from office those who are lacking in the honesty and sincerity of purpose necessary to fair decisions.

We already have in this country a considerable dissatisfaction with the extensive system of courts that is provided and of the many avenues and loopholes provided for appealing from one court to another. This extensive machinery may have been justified by some

unsatisfactory experience of injustice of important magnitude in some lower court, but we all know that it has been greatly abused. It was no doubt provided to assure the maximum of justice in all cases of doubt as to right or wrong, guilt or innocence. But is it not true that in any important principle involving a large sum of money resort is almost invariably had to the very last court? And is it not also true that only the very strong can survive the expense of any procedure that contemplates continued appeals embracing long periods of time and expense? In the case of the railroads and employees it is unnecessary to say who would be the stronger party to the dispute. It costs employees a great deal of money to appeal cases to any board, but to multiply this by three and spend the money necessary to compile data and information and employ attorneys and technicians necessary to impress public men of the caliber comprising boards of the nature proposed in this bill precludes the possibility of invoking the cumbersome machinery provided by the proposed bill without the assessment of dues or fees extraordinary that will almost offset the advantage gained.

Even the majority of the organizations who are pressing for the passage of this bill have not the resources to handle important controversies up to the board of arbitration proposed by this bill without special assessments. The reason for seeking the desired legislation in the face of such disadvantage must lie in the consummation of some great principle to which these organizations are dedicated and when we look for this principle we find that it is the selfish desire to monopolize representation of all employees to the great detriment of the common welfare and to the employees as a whole. If any body of men should come before this committee or any other committee of Congress and propose legislation designed to restrict to one religious body the religious destinies of the people an examination would be made into his sanity; yet we are here to consider with all due seriousness before the great dignified body of Congress a bill contemplating the vesting of a thing so important as our economic destiny in the hands of a few labor organizations.

The organization party to the appointment of nominees for the consideration of the president on board No. 1 with one exception do represent a majority of the employees in the classes of service involved, but by no means all of them.

There are about 83,000 employees eligible to membership in the Switchmen's Union, but it is a well known fact that an overwhelming majority of them are members of other organizations.

The organizations to be represented on adjustment board designated in this bill as board No. 2 do not represent subordinate officials of the classes named on any railroad in the United States and represent only about 25 per cent of all of the employees of the classes enumerated in the bill, and which would come under the jurisdiction of board No. 2, or to be more exact, about 33 per cent of such employees on the eastern railroads and only about 17 per cent of such employees on the western railroads.

The organizations party to nominations for adjustment board No. 3 do not in any instance represent a majority of the classes for whom under this proposed bill they are given the exclusive right to name nominees for appointments to the board. The Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and

Station Employees has a membership on railroads of less than 100,000, yet there are employed on the railroads in the United States over 350,000 of the classes eligible to membership in that organization; the United Brotherhood of Maintenance of Way Employees and Railway Shop Laborers which under this bill will be given the exclusive right as a national organization to name nominees for appointment of members to this board, has a membership of less than 50,000 of the classes eligible to membership in that organization, yet, there are employed on the railroads in the United States over 445,000 of the classes eligible to membership in that organization; the Brotherhood of Stationary Firemen and Oilers represents a negligible percentage of the classes eligible to membership therein. It is rather unique to find organizations of such limited membership seeking the sole right to name nominees to a board which will consider cases affecting all of the employees in the several classes of service. It is a master stroke in the effort to secure a monopoly on representation of railroad employees through coercion.

We desire to make it clear to your committee, however, that so far as the organizations are concerned that would be represented on board of adjustment No. 1 this also applies to the telegraphers and signalmen's organizations, that are in no way interested in their form of organization nor in their manner of handling their business. We have no quarrel with their policies; neither are we in any way offering or suggesting the very slightest criticism as to their desire for the creation of the national boards of adjustments, that is, so far as the handling of their own affairs is concerned. Our criticism is aimed at the organizations that are undertaking by legislation to enforce a condition of servitude upon the classes represented by us and which they assume to represent and are now trying by legislative enactment to force our membership to seek representation through them rather than through and by representation of our own choice.

There is no real reason to justify a change in the present law. As I have already stated, it guarantees to employees the right of conference and the right of equal representation on agencies authorized to decide cases not disposed of in conference between representatives of employees and managements. There appears to be no denial of this fact, but exception is taken to some compulsory provisions of the present law exercised through the force of public opinion and to the failure of the board functioning under the present law to satisfactorily handle the cases presented to it. That the Labor Board has not given entire satisfaction can not be denied, but there never was any tribunal which could give entire satisfaction in the handling of matters which could not be disposed of in conference between the parties to the dispute. The very fact that the case must be submitted to a board or to some agency of arbitration implies that the question is controversial and no board or agency can hope in all cases to satisfactorily convince the party against whom the decision is rendered that the position taken by said party is wrong. We can not hope for any board to satisfy all parties all of the time. We know, however, that the realization of the hope to satisfy the greatest number of employees and carriers most of the time lies more in giving one tribunal a chance to establish in both parties, the confidence that is essential to its proper functioning than in anything else. Under

the conditions and obstacles confronting the present board no just man can say that it has had this opportunity.

Title III of the transportation act was for all practical purposes effective April 1, 1920, which is the date the Labor Board commenced to function. It can not be said that this law was precipitated upon the carriers and employees and public without consideration of its provisions or without opportunity on the part of men having widely different opinions to express their views. It was the choice of several laws proposed by various Members of Congress after hearings by congressional committees. It was passed by a Republican Congress and signed by a Democratic President, and very few laws, after their enactment, are subjected to a test period of such varying and discouraging conditions.

The conditions which existed in April, 1920, when the Labor Board, created under the transportation act, began to function are without precedent. No tribunal had ever been confronted by such universal dissatisfaction on the part of railroad employees as to wages. The adequacy of the wages established by the Railroad Administration was the subject of protest by employees long before the termination of Federal control. Some classes of employees, impatient with the inability of their ortganizaion leaders to secure for them the relief which they considered justified, were leaving railroad service on illegal strikes. Interruptions to traffic were frequent throughout the country. Organizations of the ultraradical type sprang into existence and threatened to destroy the morale and cooperative effort it had taken years to build up. Thus the board started to function on the eve of a crisis. It undertook the investigation in the manner that the law governing its function prescribed. Hearings were conducted and lasted over a long period of time. The voluminous character of the evidence and the necessity for immediate action substantially shortened the time the board should have had at its disposal to carefully analyze the evidence and reach its conclusions with calm deliberation.

In the midst of this there was thrust upon it the gigantic question of rules. During the period of Federal control national agreements had been entered into with various classes of employees and the question of continuing these agreements came into controversy. It was necessary for the Labor Board to immediately promulgate some rules as a basis for applying the increases decided upon in decision 2 and to temporarily meet the situation, pending presentation of evidence, the board had to adopt the rules contained in the national agreements. There followed further hearings lasting over a period of several months in which there was presented voluminous data by both parties. Finally in April, 1921, the Labor Board rescinded its direction in decision No. 2 with respect to rules of the national agreements with the understanding that the representatives of the carriers and employees would confer and endeavor to reach agreement on rules in lieu thereof. Unfortunately agreement could not be reached on rules of major importance and the whole problem was again laid in the lap of the Labor Board.

Practically every rule promulgated by the Railroad Administration was in dispute on some railroad, and the board was required to reach a decision as to rules governing all the conditions of employment of all classes. This was a colossal undertaking. The Labor

Board had to give consideration to conditions not necessarily recognized by the Railroad Administration, or to conditions changed in varying degrees according to locality, traffic conditions, and other elements affecting operation in various parts of the country. It was a year before the board could dispose of the problems.

In the meantime it was handicapped by innumerable questions of jurisdiction over electric lines, private car lines, inspection and weighing bureaus, and, in fact, every phase of its authority. The disposition of these questions alone would have taken a long time in any court in the land.

If there had been no other business before the board, the disposal of the volume of work involved in the foregoing would have done justice to an institution with much greater resources and of sufficiently long standing to attain the spirit of understanding and confidence on the part of the members so necessary to proper functioning. But this is only a small part of it. By the time these questions were disposed of and even before all of the decisions thereon had been promulgated, other questions of major importance had arisen, such as contracting labor, piece work, applications for reductions in wages, etc. I do not contend that it handled all of the problems presented in the most satisfactory manner, as this would require a study of the evidence upon which its findings were based. But I certainly do not consider it fair as a citizen to criticize the work of any tribunal operating under the conditions we all know are without parallel in our history, or to agree that it should be legislated out of existence on the basis of a record established during such a period.

With this brief reflection upon the conditions surrounding the first two years of the board's existence, let us turn to something more recent when conditions are not quite so abnormal. This is important because the request for change must be assumed to be based on the present and not on conditions existing several months or a year ago. The criticisms based on a performance under the severe strain of a docket congested with labor questions of major importance do not afford a fair basis for judging or determining the merit of such a tribunal under normal conditions. Most of the articles criticising the Labor Board which have been so far introduced are based on the board's performance over a year ago. If the board is now handling cases with greater promptness, isn't it only fair to give it a trial in a period of normality? No board or tribunal will ever give entire satisfaction. It certainly will not function promptly until it exists long enough through a normal period to enable the members to absorb the viewpoint of each other so that questions may be handled with greater understanding, confidence, and expedition. Boards of a bipartisan or tripartisan character are necessarily composed of men of different views on the various questions of wages and working conditions molded by experience obtained in a different atmosphere and training. It is desirable that such men receive their training in different localities, departments, and branches of service. This insures men of a variety of experience and broad understanding, equipped to handle the numerous problems presented. But in getting a tribunal composed of such men in working order confidence is the first thing to be established. This can only come from experience in working together on the problems presented to them and in arriving at common understandings. It takes a long time to accomplish this.

Only during the past year have all of the members been placed on a five-year basis or really gotten a fair start toward building up the spirit of confidence which will enable the board to function smoothly.

If we are to legislate every tribunal that is established out of existence every few years in order to try some new experiment, we are never going to get anywhere. We will soon lose the friendly and sympathetic relationship between the management and employees that now exists on most railroads, notwithstanding what we hear to the contrary.

There were 11,461 disputes presented to the Labor Board between April 15, 1920, and December 31, 1923. Of this number, 3,887 were of the nature that are usually referred to adjustment boards, namely, disputes affecting the application of rules or agreements. The conditions which brought about the submission of this large number of disputes will probably never occur again. After the termination of Federal control the railroad managers and employees were handed national agreements containing iron-clad rules in which the local officials or employees had no part in negotiating. They were not fully understood and efforts on one side or the other to clarify them were received with doubt and suspicion. In other cases friendly disputes were created to determine what was actually meant by some of the rules. Since Decision 119 was issued, directing the consummation of agreements between representatives of employees and carrier on each individual property, the number of disputes has been materially reduced. I have not been in a position to verify the figures already presented to this committee by representatives of the so-called national organizations, but according to their figures there were comparatively few cases presented to the Labor Board in the last three-month periods the tables cover. This falling off in the number of disputes is due to the establishment of regional boards of adjustment, to the establishment on individual properties of boards for the adjustment of controversies arising over the application of rules, the better understanding between carriers and employees of rules and agreements mutually negotiated, and to the growing feeling of mutual satisfaction and contentment between carriers and employees.

A great deal has been said by the proponents of Senate bill No. 2646 about the strife and discord alleged to exist between railroads and their employees. I believe this is greatly exaggerated. On the contrary there is a very friendly feeling and relationship between the railroads and their employees to-day. No one will deny that the fullest cooperation of employees and managements of railroads is necessary to economical and efficient operation. If this did not exist and had not existed in the year 1923 the railroads of this country would not have been able to make the very favorable showing they did, a showing wholly unprecedented in railroad history. The Labor Board is having less disputes submitted to it than ever before, and in the first three months of 1924 disposed of about 30 more cases than were actually received during that period. The docket of unfinished businesss before the Labor Board is comparatively small at this time and now that it is handling cases with reasonable promptness and since every additional day of experience should insure even more efficient performance why consider its elimination? It is my understanding that during the past three months less than 200 cases have been submitted to the board.

It is not my purpose to either intentionally condemn or defend the United States Railroad Labor Board. The railroad employees whom I represent recognize that the United States Railroad Labor Board undoubtedly has made many mistakes—undoubtedly many of its decisions have been erroneous; undoubtedly a greater delay has occurred in the rendering of decisions than should have occurred, and, likewise, undoubtedly many questions should have been decided which are still undecided, but what tribunal has ever been created that gives satisfaction to all interests involved? What tribunal has ever been created that decides questions as expeditiously as the litigants feel such questions should be decided? Moreover, what tribunal has ever been created that has had placed in its hands anywhere near as great a number of questions to decide as has this board during the time that it has been in existence. While it is unquestionably true that the machinery provided may be improved upon, at the same time we believe that it is the best medium for deciding industrial questions that the minds of men have contrived up to the present time.

Therefore, Mr. Chairman and members of your committee, I urge in behalf of the employees whom I represent that Title III of the transportation act remain unchanged, but, however, irrespective of what our desires may be in the matter, should this committee in its judgment see fit to recommend to the Senate, and the Senate and the Congress feel that any changes should be made therein, we have a suggestion to make which we trust will be given serious consideration and painstaking study by your committee, the Senate, and the Congress. This is the suggestion:

That the number of members constituting the United States Railroad Labor Board be not changed, but that the representation thereon be changed so that the board will be composed of five representatives of the public, two representatives of the carriers, and two representatives of labor, one of the latter to be appointed from the employees represented in this hearing, and one from the employees represented by the proponents of Senate bill No. 2646.

Senator DILL. Mr. Anderson, would it interrupt you if I asked a question there?

Mr. ANDERSON. No, sir.

Senator DILL. What other considerable organizations of employees are there besides the ones you represent and the national organizations? Are there any others?

Mr. ANDERSON. If I understand your question—the organizations that I represent now are a number of individual organizations.

Senator DILL. Are there any others of any considerable number besides the ones you represent and the national organizations?

Mr. ANDERSON. There are a number, I think, that are affiliated with the Federation of Labor that are not nationally organized.

Senator DILL. Do you represent the same organization Mr. O'Neil does?

Mr. ANDERSON. I do not; have no connection with him whatever.

We are opposed to the plan of appointing an arbitration board as occasion may require, for the reason that without accurate knowledge of the provisions contained in the agreements including the wage structure and without long experience in such work, irrespective of how high may be the character or standard of the membership of

such arbitration boards, such boards will be incompetent to intelligently decide as to the merits of the intricate labor questions arising on the railroads.

We are in favor, however, of a board or boards of arbitration provided the personnel thereon be permanent in nature, that is, the members appointed for a definite number of years. That is virtually the same as we have now on the present Labor Board.

We hold that in the last analysis public opinion when properly and adequately informed is always right. Based upon that principle it is our suggestion that if there are any changes to be made in Title III of the transportation act the change should be to increase the number of public representatives to five instead of three as the act now provides.

Having confidence in the force of public opinion, so far as the railroad employees are concerned whom I represent, we are willing to rest our case with a tribunal made up of representation such as we have suggested whenever occasion arises that we fail to arrive at an agreement with the respective carriers with whom we deal. In other words, believing that the power of public opinion will enforce justice, we prefer to trust our destinies to the machinery now existing or if changed to the machinery that we have suggested, rather than to the machinery which would be set up under the proposed bill, and which in the last analysis would effectually destroy the form of representation we now enjoy, and which we believe to be far in advance in working out the scales of justice to the employees represented thereby than any which we have heretofore enjoyed.

In conclusion I shall review in a nutshell our views with respect to the proposed change in the present law: To our minds the American public is confronted by a great danger in the proposed bill. The danger is great because it is being attempted under the guise of assisting labor. The purpose of the proposed bill, which the proponents thereof are trying to have passed by Congress in the place of Title III of the transportation act, is to turn the adjustment of all questions of wages and working conditions of railroad employees over to the American Federation of Labor and the crafts affiliated with it in this attempt.

This bill if passed will cause a nation-wide railroad disturbance inside of two years, for the reason that its passage will force the men represented by us to leave the service collectively in order to maintain their positions with their employers as against the onslaughts of the organizations which assume to but do not represent the classes of labor on the western railroads represented by us.

This bill if passed will deprive approximately 140,000 members of the railroad shop associations and other independent railroad associations now employed on the railroads of the right to make or interpret contracts with their employers through their elected representatives.

This bill if passed will be a repudiation of the men who remained loyal to their employers and the interest of the public following the nation-wide strike in July, 1922, and will reward the men who tried to revolutionize the railroads by substituting centralized control for the present system.

This proposed bill is the heart of the Plumb plan in disguise.

Title III of the transportation act recognizes the right of the majority on any railroad system to enter into contracts with the management.

This proposed bill gives the individual or majority no voice unless he or they be a member or members of one of the so-called standard railroad labor organizations.

This proposed bill will give the representatives of the minority of employees, whether any members of the organizations representing the proponents of this bill are employed on the line of railway or not, more authority than the general manager.

This proposed bill creates four adjustment boards with 40 members thereon at $7,000 each, or a total of $280,000 per year, aside from the heavy additional cost necessary for clerk hire, office rentals, etc., 20 of whom are furnished by the so-called standard labor organizations regardless of the fact that many of them actually represent a very small number of the employees in the service of the carriers as a whole and on the great majority of the western railroads none at all, and it also creates a board of mediation and conciliation composed of five members at $12,000 each, with the necessary staff, all of which expense must be borne by the taxpayers.

This proposed bill, if made a law, would have for one of its main purposes the compelling of every railroad employee to join one of these organizations and deprive him of his inalienable right to select his own representative.

This bill, if passed, will renew and enforce the slogan of the striking crafts, "Get in or get out." It is un-American; it is industrial slavery.

This proposed bill, if passed, would abolish the incentive to economy in railroad operation.

Speaking for the thousands of loyal men now employed on the railroads, we trust you will not permit the proponents of this bill to hoodwink yourselves, the Senate and Congress of the United States, into the passing of a Federal law which in the last alnaysis would compel the shop employees on the railroads to affiliate with the classes that in July, 1922, caused thousands of men to lose their positions and their families to suffer.

Representing, as we do, thousands of men belonging to associations on railroads which came into existence because of the dissatisfaction with the representation heretofore afforded us by the so-called national organizations representing labor in departments other than the maintenance of equipment department, we most earnestly request that there be no change made in Title III of the transportation act except that, if in the judgment of your committee it should be changed the only change be in the personnel of the representation thereon as hereinbefore suggested. I thank you.

Senator HOWELL. Mr. Chairman, may I ask some questions?

Mr. Anderson, you represent these organizations which total 140,000 employees approximately?

Mr. ANDERSON. Approximately; yes, sir.

Senator HOWELL. Have these independent organizations a common organization?

Mr. ANDERSON. Absolutely not.

Senator HOWELL. Well, how were you appointed to represent them?

Mr. ANDERSON. By a meeting that I individually undertook to call together at Chicago, April 3.

Senator HOWELL. On April 3; there was a meeting held, then, at that time, was there?

Mr. ANDERSON. Yes, sir.

Senator HOWELL. And up to that time no action had been taken by these organizations except through your activity.

Mr. ANDERSON. I believe some of them in individual cases took it upon themselves to write to their Senators, but as a collective movement there was none made to my knowledge previous to that time.

Senator HOWELL. Until April 3?

Mr. ANDERSON. April 3; yes, sir.

Senator HOWELL. Now, Mr. Anderson, are you a railroad empolyee?

Mr. ANDERSON. I have been working for the Union Pacific and its kindred associations, excepting the time I have gone to school, since 1895, when I started in to serve my time as an apprentice.

Senator HOWELL. And you are now employed by the Union Pacific?

Mr. ANDERSON. I am not. I am employed by the shop associations of the Union Pacific, and have so been—I think the exact date would be September 25.

Senator HOWELL. Up to that time you had been in the employ of the Union Pacific?

Mr. ANDERSON. Yes, sir.

Senator HOWELL. And since September 25 you have been representing these organizations?

Mr. ANDERSON. Yes, sir. Pardon me; the organizations of the Union Pacific system—not these organizations.

Senator HOWELL. And then you proceeded to call a meeting of the representatives of these various organizations?

Mr. ANDERSON. Yes, sir.

Senator HOWELL. And it was held on April 3?

Mr. ANDERSON. Yes, sir.

Senator HOWELL. Of this year, of this month, the third day of this month. Now, how many representatives were present at this meeting?

Mr. ANDERSON. I have not the total of it, but there were more than that. The minutes have unfortunately not been written up, because there was not time for it. There were minutes taken of the meeting, and the man who has them as secretary has them at the present time at Topeka, I can give you roughly——

Senator HOWELL. You do not know how many were present?

Mr. ANDERSON. Not the total. I could not keep track of them.

Senator HOWELL. Was each of these organizations represented?

Mr. ANDERSON. That appear in there?

Senator HOWELL. Yes.

Mr. ANDERSON. They were either there or represented by telegrams by which they delegated authority to us, and I will turn that list over to you.

Senator HOWELL. How many were there by telegrams, and how many were there by personal representatives?

Mr. ANDERSON. I have not that information. It can be secured here.

Senator HOWELL. You know how many telegrams you have there?

Mr. ANDERSON. I do not. My time has been so taken up—I have had just a few hours' sleep last night—in getting this together, and some things were overlooked, and some things I would have done had I had sufficient time, not being familiar with the procedure.

Senator HOWELL. Haven't you an idea approximately of how many representatives were present there in Chicago?

Mr. ANDERSON. I would say probably about 40.

Senator HOWELL. There were about 40?

Mr. ANDERSON. But understand some of them were double-headers, there were three from some roads, and stuff like that.

Senator DILL. While he is counting those may I ask you: What is your attitude regarding the boards of adjustment if the various classes of employees could be represented?

Mr. ANDERSON. Your boards of adjustment as they are now set up, if that answers your question, really are an intermediary step between the occasion that arises when it is referred to them as the final arbitration board, making all that expense unnecessary, because you have the Railroad Labor Board at the present which acts as a board of mediation and conciliation, so that all the boards in between there, board No. 1, board No. 2, and board No. 3, are in my estimation superfluous.

Senator DILL. I say, you would be opposed to that then?

Mr. ANDERSON. That question, sir, to answer it according to my own mind, would take a little bit of study. I can not say that I am opposed to any board, because anything at all that will bring about peace, in my estimation, is a good thing, but I am opposed, in the first place, to the expense that would be involved in the intermediary boards. I do not know whether that answers your question.

Senator DILL. Yes, sir; that is what I had in mind.

Senator HOWELL. How many shop craft organizations do you represent?

Mr. ANDERSON. You are asking me now relative to the Union Pacific, or the total number that I am here to-day representing?

Senator HOWELL. I am asking you the total number you are here representing now, shop craft organizations?

Mr. ANDERSON. Well, sir, I would have to add that up because it takes in not only the shop craft organization, but I am also here to-day to represent the maintenance of way organization and the yardmaster organization and several others that I might enumerate and which are in evidence here in this statement.

Senator HOWELL. Can you count those telegrams there now and tell me how many telegrams you have?

Mr. ANDERSON (counting). Ten. If you wish, we will submit them for the record.

Senator HOWELL. Yes.

(The telegrams referred to are here printed in full, as follows:)

[Telegram]

TIBURON, CALIF., *April 2, 1924.*

C. E. ANDERSON,
Morrison Hotel, Chicago, Ill.:

This is your authority to represent the employees' association of motive power and car department of the North Western Pacific Railroad Co. Send copy of the bill.

LOUIS S. BEZENA,
Secretary of North Western Pacific System.

[Telegram]

HOUSTON, TEX., *April 1, 1924.*

C. E. ANDERSON,
President Union Pacific Shop Craft Association,
Morrison Hotel, Chicago, Ill.:

We have just learned of arrangements to hold a meeting Chicago, April 3, connection Senate bill 2646. Association shop craft employees' Southern Pacific lines in Texas and Louisiana ask that you represent them at this meeting and if you are successful in securing hearing before either Senate or House committee wire me and we will join you in Washington. We received invitation from O'Neill to attend meeting, but did not think it desirable to join with him, but will be glad to join forces with all other associations similar to yours and ours.

E. J. SCOTT,
General Chairman Association Shop Craft Employees.

[Telegram]

POCATELLO, IDAHO, *April 2, 1924.*

C. E. ANDERSON,
Morrison Hotel, Chicago, Ill.:

This telegram authorizes you or Mr. Steers to represent and speak for the train dispatchers' association, Oregon Short Line.

H. P. RIGGS, *President.*

[Telegram]

LOS ANGELES, CALIF., *April 1, 1924.*

Mr. C. E. ANDERSON,
Care Morrison Hotel, Chicago, Ill.:

Please represent Clerical Employees' Association, Los Angeles & Salt Lake Railway Co., in helping perfect plans to oppose Senate bill 2646. You have my cooperation in any measure you may deem necessary.

N. E. DAVIS.

[Telegram]

ST. PAUL, MINN., *April 2, 1924.*

C. E. ANDERSON,
President Shop Employees' Association, Union Pacific System,
care Morrison Hotel, Chicago, Ill.:

This will be authority for yourself and P. A. Steers to represent the Association of Telegraph and Telephone Maintenance and Construction Employees, Northern Pacific Railway Co., in connection with Senate bill 2646.

J. B. JOHNSTON, *Chairman.*

[Telegram]

SALINA, KANS., *April 3, 1924.*

C. E. ANDERSON or P. A. STEERS,
Morrison Hotel, Chicago, Ill.:

Authority is herewith delegated you to represent the Train Dispatchers' Association, Union Pacific Railroad, in opposing Senate bill 2646.

G. A. STEBBINS, *President.*

[Telegram]

HOUSTON, TEX., *April 2, 1924.*

C. E. ANDERSON,
President Shop Employees' Association, Union Pacific System,
care Morrison Hotel, Chicago, Ill.

Your wire to Paulson of 31st, asking authority to speak for Association of Shop Crafts, Gulf Coast Lines. You are authorized to speak for and represent Association of Shop Crafts on Gulf Coast Lines and Houston Belt and Terminal at meeting Chicago to-morrow in defense plans of Senate bill 2646.

LUTHER THOMAS,
President Association Shop Crafts, Gulf Coast Lines.
JEP. SMITH,
President Association Shop Crafts, Houston Belt and Terminal.

[Telegram]

DE QUINCY, LA., *April 2, 1924.*

C. E. ANDERSON,
Care Morrison Hotel, Chicago, Ill.

Meeting Shop Crafts Association, Gulf Coast Lines, De Quincy, this date was decided by unanimous vote that you represent this association in connection with Senate bill 2646 at meeting to be held in Chicago.

M. J. LOY, *President.*

[Telegram]

VANCOUVER, WASH., *April 3, 1924.*

C. E. ANDERSON,
Care Morrison Hotel, Chicago, Ill.

The Shop Employees' Association of S. P. & S. Ry. are 100 per cent against enactment of Senate bill 2646. Please represent and speak for us April 4 and 7.

W. G. MYERS, *Secretary.*

[Telegram]

LINCOLN, NEBR., *April 2, 1924.*

C. E. ANDERSON,
Care Morrison Hotel, Chicago, Ill.:

Your wire 31st just received; unable to attend. We have already protested this to our congressional representatives through letters. However, if you are to appear before committee you may voice our protests to the bill.

A. D. LAKE,
General Chairman System Board.

Senator HOWELL. You say you have 10 telegrams that gave you authority to act for them?

Mr. ANDERSON. I think I am correct in saying "yes" to that.

Senator HOWELL. That is all that you have?

Mr. ANDERSON. That is all that I have.

Senator HOWELL. Now, how many organizations were represented at this meeting?

Mr. ANDERSON. Well, as I told you before, I would have to go over and add them up in detail, but there are machinists, boiler makers; that is, all the crafts represented there, I believe, but I am not sure, although I would have to go back, as I say, and try to recall.

Senator HOWELL. They had their meeting on the 3d?

Mr. ANDERSON. On the 3d.

Senator HOWELL. Since the 3d you have made the investigations that were necessary for you to write this paper?

Mr. ANDERSON. No, sir; I have not. Some of those were made before and came to my mind; and, furthermore, I did not prepare that paper alone. There were several minds put together on that.

Senator HOWELL. There were several minds that acted together?

Mr. ANDERSON. Yes, sir.

Senator HOWELL. When did they act together?

Mr. ANDERSON. Possibly from the 30th of March, when I was first informed——

Senator HOWELL. From the 30th of March; in other words, this paper has been prepared since the 30th of March?

Mr. ANDERSON. Yes, sir.

Senator HOWELL. And all investigation has been made since that time?

Mr. ANDERSON. Now, pardon me; by investigations you mean, now, the figures that I put in there?

Senator HOWELL. Yes, sir.

Mr. ANDERSON. Some of those figures are taken from Interstate Commerce reports and some of them come from the meeting that was held by the Federation of Labor at Portland last summer. Of course those were simply copied.

Senator HOWELL. Who were the other gentlemen who cooperated with you in preparing this report?

Mr. ANDERSON. Mr. Fleck is one of them; Mr. Gibbon is another, that I see here to-day; Mr. Reynolds is still another, and suggestions came from different ones on the management side as well, where we were seeking information.

Senator HOWELL. Is your objection in connection with this bill principally aimed at the adjustment boards?

Mr. ANDERSON. Our objection is this, sir—I think I have tried to outline it—that we do not want to submit to a representative that is not of our own choice.

Senator HOWELL. Well, then, the only place where such a representative would act would be on the adjustment boards. So your objection is to the adjustment boards and their method of organization, is it?

Mr. ANDERSON. I can not say that I altogether agree with the stand taken there as your mediators, your arbitrators, because the way they are appointed there we would have very little to say.

Senator HOWELL. Well now, just a moment. Suppose the organization on the Union Pacific had a grievance and you should go to conference; no agreement should be arrived at; it then should go to the adjustment board; no agreement arrived at there; then you should go to arbitration. Your organization would appoint one arbitrator, the railroads would appoint the second, and they would appoint the third. Wouldn't you be represented?

Mr. ANDERSON. As I understand it, it would not be our organization that would do the appointing.

Senator HOWELL. Of the arbitrator?

Mr. ANDERSON. Yes.

Senator HOWELL. Well, absolutely. Then you do not understand the bill, do you?

Mr. ANDERSON. I thought I did; but I have given it limited study. I frankly confess that there may be points, there very likely are, I know there are, that I am not fully conversant with.

Senator HOWELL. Were you fearful that the boards of adjustment might affect the wage scale and the conditions of employment?

Mr. ANDERSON. No, not directly that; excepting indirectly. We will take a case where there is some dispute between them as to wages; it is mandatory there; it must be submitted to the board.

Senator HOWELL. Indicate just what kind of a dispute.

Mr. ANDERSON. As to wages.

Senator HOWELL. Now, there, as to the amount of wages?

Mr. ANDERSON. That is a complaint, understand; a complaint that comes in relative to the wages and working conditions, a grievance, in other words.

Senator HOWELL. A grievance as to an adjustment or interpretation of your contract, but you are referring to wages increased or decreased; that is, as to whether you are entitled to wages. Would you object to the method that is provided here for the creation of new contracts?

Mr. ANDERSON. No; I can not say that I do, but possibly—let me clear myself on that or make myself clear on it, by stating it in my own way. We have a grievance, we will call it. We do not come to any understanding mutually on the ground locally. That must then be taken to one of the boards. In my case, being a machinist, it would be taken to board No. 2, would it not?

Senator HOWELL. Yes; just a grievance would be taken there.

Mr. ANDERSON. We have no representation whatever on the board.

Senator HOWELL. That is your principal objection then, is it?

Mr. ANDERSON. That starts in with the objection.

Senator HOWELL. Now then, go on. Follow up your objection.

Mr. ANDERSON. Pardon me there. This probably brings in a little bit of my own personal experience. This I know, that there would be members on this adjustment board, two of them, that would not agree personally to it, as individuals or as independent organizations. We would get nowhere with them at all.

Senator HOWELL. Then, in other words, what you are objecting to is the constitution of these boards of adjustment?

Mr. ANDERSON. Very much so.

Senator HOWELL. That is your principal objection?

Mr. ANDERSON. That starts in with the objection, yes sir; from the nationally organized organizations.

Senator HOWELL. Now here you have an organization, you say; a tentative organization, of these 31 shop crafts.

Mr. ANDERSON. Absolutely not. They are independent organizations, and we did not bind ourselves by any agreement to carry that on in the future. It is simply for the opposition to this bill, that it locks us out absolutely.

Senator HOWELL. Well, suppose these various organizations were represented, or the organizations jointly were represented, upon the adjustment board; would that meet your view?

Mr. ANDERSON. I think that I can answer that by stating this: We are satisfied, excepting as I have enumerated there, we are satisfied with the present Labor Board, and we are absolutely against the whole proposition.

Senator HOWELL. In other words, you do not want any different law?

Mr. ANDERSON. Take it that way; yes, sir. It is satisfactory to us, and my reason for it is this, sir, that under our present law we are developing a relationship—I am speaking now of the Union Pacific, because I know that, and I think the other gentlemen who are here with me will concur as to their conditions on their railroads—that is, that there is a friendly relationship developing between the foremen, managers, or whatever you wish to call them, which is unprecedented; it has never been in existence before. We are simply trying to work out our own salvation on those lines. We have opportunities there

that have never been given before. We have round-table conferences. We have discussion on matters that are really cured before there is a reaction. That is, we heal the sore before it is aggravated. We heal it up.

Senator HOWELL. That is a conference?

Mr. ANDERSON. It is a conference; yes, sir.

Senator HOWELL. This does not prevent such conference?

Mr. ANDERSON. We object to the tax that is involved in that.

Senator HOWELL. There is no tax in connection with the conference.

Mr. ANDERSON. You mean the conference that I speak of?

Senator HOWELL. We have a conference. Suppose you have a conference under this bill; it is the same kind of conference that you have now.

Mr. ANDERSON. It would never get that far. It would be cleared up because we have no representation there.

Senator HOWELL. Just a moment. You mean to say you can not arrive at conclusions now at your conference?

Mr. ANDERSON. We do arrive at conclusions at the conference.

Senator HOWELL. Wouldn't you arrive at conclusions just the same under this bill?

Mr. ANDERSON. You will please us if you keep that bill out of here.

Senator HOWELL. You and the Union Pacific Railroad are one in this view?

Mr. ANDERSON. We are a family; yes, sir; that is a fact. We are developing a relationship that has never existed before, and we want it to stay as it is.

The CHAIRMAN. The representative of the Pennsylvania Railroad employees has been asking for a hearing for several days. This is the last hearing we can give to these organizations.

Mr. O'NEIL. Mr. Chairman, my name is O'Neil, representing the International Association of Supervising Mechanics.

The CHAIRMAN. I do not think that we will be able to hear all these witnesses. We decided to finish up these hearings to-day.

Mr. O'NEIL. Mr. Chairman, I am representing an entirely different class of men than has appeared before.

The CHAIRMAN. But you are opposed to the bill?

Mr. O'NEIL. Certain features of it; not the bill in its entirety. I have certain recommendations.

The CHAIRMAN. Will the witness please give his name and position?

STATEMENT OF THEODORE H. DAVIS, GENERAL CHAIRMAN, EASTERN REGION, PENNSYLVANIA RAILROAD SYSTEM, REPRESENTING PENNSYLVANIA SYSTEM SHOP CRAFT ASSOCIATIONS

The CHAIRMAN. How long is your statement?

Mr. DAVIS. I do not think it will take more than 15 minutes, Mr. Chairman.

The CHAIRMAN. You see, all these statements are repetitions. We are hearing the same thing over and over again.

Senator DILL. I suggest to these representatives, that inasmuch as our time is limited, they make a sort of a résumé of their statements and submit the written statements for the record. We will

be able to hear more of them that way, because we will have to go through this record and read it. At least I shall.

The CHAIRMAN. All we have had from Mr. Anderson this morning we have had before. Day after day we hear the same objections and we get nowhere.

Mr. S. L. WITMAN. Senator, may I make the suggestion that the representatives here file their reports with the committee with the approximate number of the men that they represent?

The CHAIRMAN. I think that would be ideal. We have got to study these reports anyway.

Mr. WITMAN. That would clear up the situation as to who we understand are representing the railroad men numerically.

Mr. DAVIS. Mr. Chairman, it will take about 12 minutes' time to read this statement. I would appreciate it very much if it could be entered in the record.

Senator DILL. How many do you represent?

Mr. DAVIS. Fifty thousand men.

Senator DILL. All on the Pennsylvania?

Mr. DAVIS. All on the Pennsylvania, shop craft employees.

The CHAIRMAN. Do you want to put that in, or would you like to read it?

Mr. DAVIS. I would like to read it.

The CHAIRMAN. Very well; read it.

Mr. DAVIS. Mr. Chairman, I am appearing here on behalf of the Associations of Shop Craft Employees of the Pennsylvania Railroad system, which associations represent at the present time about 50,000 employees, consisting of mechanics, helpers, and apprentices in the maintenance of equipment department, and I wish to file with your committee, as a matter of official record, copies of the agreements which our association has negotiated with the management of the Pennsylvania Railroad by each region separately, which covers the regulations, rate schedule, and graded work classification for the class I represent.

(The booklets referred to were filed with the committee.)

Mr. DAVIS. Within the covers of these booklets which I am handing you, you will find copies of the constitutions and by-laws governing the associations, which set forth in detail the methods to be followed in the handling of questions between the Pennsylvania Railroad system management and its mechanics, helpers, and apprentices in the maintenance of equipment forces.

I call your particular attention to the preamble of the by-laws:

> In order to form an organization to establish satisfactory working conditions, adjust differences as they may arise, and promote a mutual understanding between the management of the Pennsylvania Railroad system and the maintenance of equipment forces of the eastern region, these by-laws are adopted.

These by-laws cover the question of membership, representation, qualifications of voters and representatives, nominations and elections, and the rules governing the activities of local committees, general committees, regional committee, and the regional joint committee; the procedure for adjustment of controversial matters provides for a region council which consists of the chairman of the local committees and other features which are necessary to the conduct of such an association as ours.

You will observe that this contract between the management of the Pennsylvania Railroad system and its employees is signed for the management by the general manager with his facsimile signature, likewise for the employees you will note the facsimile signature of the general chairman representing the several crafts.

You will also note in the pages of this book copy of memorandum of understanding covering method to be followed in the adjusting of disputes on questions of piecework prices between the Pennsylvania system management and its employees covered by the shop-craft regulations. These booklets represent the work of our committees representing these classes in negotiating with the management satisfactory working conditions, which from our standpoint, are as good, i not better, than on any other line in this country.

The relationship between the association of shop-craft employees and the management of the Pennsylvania system is cordial and friendly. You will note in the by-laws, Article VIII, under the heading "Procedure for adjustment," arrangements are made to have monthly meetings between the local committees and superintendents, general committees and general superintendents, general committee and general manager, and finally on matters on which an agreement can not be reached between the general manager and general committee, provision is made for submitting the question to a regional joint committee consisting of equal representation of management and employees. This latter body is known as the regional joint committee and it is their duty to decide questions presented to them.

Our committee speaks and acts, in a representative capacity, for about 50,000 employees, which employees are not represented by the proponents of this bill in any manner whatsoever.

A word as to the development of the employee representation plan as created on the Pennsylvania Railroad system by joint action of management and men will not be amiss at this time. In April, 1921, the United States Railroad Labor Board issued its decision No. 119. This decision called upon carriers and their employees to take steps leading to a determination on part of the employees as to who should represent them. The Pennsylvania Railroad Co. submitted a proposition to its employees by general notice, over Vice President Atterbury's signature, a portion of which reads as follows:

> The aim of the Pennsylvania Railroad during the past year has been to establish with its own men a happy and harmonious relationship. This decision of the United States Railroad Labor Board now makes this possible.
>
> The railroads are asked to confer with representatives of the different classes of employees, with the view of establishing proper rules and regulations. This is precisely what the management of the Pennsylvania Railroad has desired.
>
> The employees have the right to select their representatives from among their own number.
>
> Detailed conditions designed solely to secure an accurate expression of the desire of the employee, under which representatives will be chosen, will be announced later.
>
> The men thus selected will be recognized by the management as empowered to speak for the men by whom they are chosen.
>
> The representatives chosen by the employees may or may not be union men, as the employees themselves decide.
>
> As soon as the representatives are elected, the officers will seek a conference with them, in order to negotiate rules and regulations.
>
> The representatives so chosen will be protected in their position no matter what may be their attitude with reference to the provisions of such rules and regulations.
>
> They will be provided with the necessary transportation, and the company will reimburse them for time lost, and for reasonable expenses while on this service.
>
> The above applies to a union man as well as to a nonunion man.
>
> While the immediate emergency to be covered is the preparation of mutually satisfactory rules and regulations, it is the hope of the management that the men thus chosen as representatives may serve as the nucleus of committees which shall frequently confer with the officers on all matters, not only affecting your welfare, but also the welfare of the railroad, and of the public that we all serve.
>
> Together, we will develop a plan under which every individual employee may have a voice in the progressive efforts of the railroad itself.

Following the receipt of this notice by the employees came other notices wherein the employees were informed that a ballot was to be taken to determine who should represent them in their dealings with the management. What took place at this time is more or less public knowledge, as it has been the subject, as your honorable committee perhaps knows, of handling by the United States Railroad Labor Board and Supreme Court of the United States rendered decisions on the subject, which I do not wish to go into, but suffice to say negotiating committees were elected at this first election, through and by which were negotiated regulations and rates of pay to govern our classes.

At this election all employees had an opportunity to vote, but as in other elections, all employees did not avail themselves of their right to vote. Many of them were skeptical and doubtful. Many employees felt that this move on the part of the management was done for purposes they could not understand.

In any event, the first committee elected was elected by a very small per cent of the employees. However, as time passed on and employees came to understand that at last they had found a form of representation which was truly democratic, which represented all employees, regardless of color, race, or creed, they became more and more imbued with enthusiasm in favor of the plan, so when the next election time came, out of a total of 60,845 employees then on the system eligible to vote, 52,278 or 85.9 per cent took part in the election.

Under our plan of dealing, grievance matters are not capable of being buried. Every question that the men desire to bring up must be brought to a conclusion. In a few words, questions must be settled; they can not remain as grievances.

Since we have been in operation as an association representing the mechanics, helpers, and apprentices on the Pennsylvania Railroad system, we have handled 3,697 cases before superintendents, general superintendents, and general managers. Out of this total, 1,394 involved rates of pay, 592 involved seniority, 202 involved discipline, and 1,509 involved miscellaneous cases.

All of these cases were handled without any threatened stoppage of work, were disposed of satisfactorily to the management and the employees without harsh feeling or friction, and of all the cases there were nine appealed finally to the regional joint committee, which on the Pennsylvania corresponds to the form of adjustment board proposed by this bill, but with this great difference: The employees being perfectly familiar with the surroundings of their employment, understanding the conditions under which they are working, under-

standing the local view, and likewise management understanding these same things with equal degree, are able to accommodate their misunderstandings much more happily than is or would be the case were an outsider to pass on such matters.

We would not be true to the trust imposed in us by the men we represent if we did not oppose this bill with all the vigor and strength at our command. Contrast the democracy of our employee representation plan with the autocracy of a group that would be created should this bill become law. We do not restrict our representation to the white race only; we represent the cause of the colored man as well as of the white man.

Can the United States Government afford to set up an instrumentality that is going to pick and choose whom it is going to represent before wage tribunals, adjustment boards, because of their color?

We feel that this bill invades our constitutional rights. We feel that our right to belong or not to belong to a labor organization is an inalienable right. We should not be either forced to join a labor organization, or we should not, if we so desire, be kept from joining a labor organization. We feel we have erected an instrumentality for the accommodation of conditions which is working satisfactorily on our line, and the proposed bill affords the employees absolutely no alternative but to become members of a labor union if he wishes his grievance handled and if such employee happens to be, as in the case of a blacksmith, a member of the State militia, he can not even join the labor union.

In the case of the colored employees, of whom thousands are employed on the railroads, many of these organizations absolutely restrict their membership to white males; and consequently the negro, under the terms of this bill, is bound to be disfranchised from having his grievance handled by this so-called national union.

Moreover, so far as the Pennsylvania Railroad system is concerned, we challenge the claim made that any other persons represent our class. No form of representation exists on our system but the employee representation, and as I pointed out to you, 85.9 per cent of the employees, out of a total of 60,845 voted to sustain that form of employee representation at the election last year.

In this connection, I would like to cite a few facts and figures to try to prove to you and the committee that the employee representation plan is working out O. K. on the Pennsylvania Railroad. It is an old saying that comparisons are odious. Many public speakers and writers are criticising American citizens for not using their franchise at the ballot box, claiming that men have been elected to office on city and county tickets by 17 per cent vote, while others have been elected on national tickets by 47 per cent vote, while the committeemen on the Pennsylvania Railroad have polled an 87 per cent vote.

These elections are held annually, and if you would like to see a square and fair, honest election, one will be held on the Pennsylvania system, at certain dates, to which we invite your inspection.

Mr. Chairman, in conclusion I wish again to respectfully state that we are appearing here on behalf of about 50,000 shopmen which our associations represent, for the purpose of voicing our protest against the enactment of legislation of this character for the following reasons:

First, it invades our constitutional rights by taking away from us our freedom of action in setting up any sort of employee representation we feel is proper.

Second, it takes away from us our present machinery for adjusting controversial questions arising between ourselves and the management and does not offer a fair substitute in return.

Third, the proposed bill does not offer any alternative method of selecting representatives of employees; it confines such selections to national organizations, and lastly, the bill takes away from the thousands of employees whom we represent a privilege which they have enjoyed since the plan was organized, a prompt settlement of controversial matters, and substitutes for this plan a national plan, which experience has told us brings about anything but prompt settlement because of the large number of cases that have to be handled by such board.

Senator HOWELL. May I ask a question?

Senator DILL. Mr. Chairman, if you go to asking questions, there are other men that ought to be heard that will not have a chance to be heard.

The CHAIRMAN. How many want to be heard here beside Mr. O'Neil?

Mr. J. P. MACDONALD. The Clerical Employees Association of the Northwestern Region of the Pennsylvania Railroad System. I am down here to testify for all clerical employees associations of the Pennsylvania Railroad system. If it would please your committee, we are perfectly willing to file our brief with the committee to save your time.

The CHAIRMAN. You see, the committee will have to read all this over again. It does not make much difference if we sit here and hear it; we have to read it all over before we reach any conclusion. We will study this over. The author of the bill even is complaining of the time we are taking, and we want to close these hearings.

Mr. MACDONALD. We thought we had something distinctive, and so far as our craft is concerned I think it is distinctive.

Senator DILL. How many do you represent?

Mr. MACDONALD. About 30,000.

Senator DILL. On various roads?

Mr. MACDONALD. No, sir; on the Pennsylvania Railroad system. Unless it is your wish that we read it, we will be very glad to file it with your committee for your record.

Senator DILL. I do not want to object to any statements, except that if we close this these other men ought to have a chance to be heard.

STATEMENT OF S. L. WITMAN, REPRESENTING SHOP CRAFTSMEN

The CHAIRMAN. Will you give your nane?

Mr. WITMAN. My name is S. L. Witman.

The CHAIRMAN. Whom are you representing?

Mr. WITMAN. I am representing the lines that hold agreements with all four of the shop craft men, absolutely separate and distinct from the one craft organizations. My one thought is this, that the

one very important question is that of who represents the majority of railroad men to-day involved in this measure, and I believe that these men who represent about 75 individual organizations throughout the country, when they pass in their submissions to your committee that should give approximately the number of men that they represent, so you may determine whether those who have presented this measure are in the majority of the railroads in the independent organizations. I think that is the most important question before your committee.

Senator DILL. Are you opposed to the bill?

Mr. WITMAN. Absolutely; no changes at all.

STATEMENT OF E. W. KILGORE

Mr. E. W. KILGORE. Mr. Chairman, Kilgore is my name. I am general chairman of the Shop Crafts Protective League of the Southern Pacific Co., the northern district. Mr. Penn J. Mays and myself are here. Mr. Penn J. Mays is general chairman of the southern division of the Shop Crafts Protective League of the Southern Pacific Co. We had short notice of the hearing, consequently I am not prepared at this time to subnit an argument, but would be pleased if the committee would accept our brief in the matter, and would like to say that we represent 13,000 employees on the Southern Pacific Railroad.

The CHAIRMAN. And you are opposed to the bill, are you?

Mr. KILGORE. We are opposed to the bill, absolutely, in its entirety, and I would like to say that I concur in all the statements that Mr. Anderson put forth in his argument, and furthermore, would like to go on record to that effect and be given the privilege of submitting a brief to the committee before final action is taken.

The CHAIRMAN. You may have that.

STATEMENT OF J. L. ELDRIDGE, PRESIDENT OF RAILROAD YARDMASTERS

Mr. J. L. ELDRIDGE. My name is J. L. Eldridge, and I am president of the Railroad Yardmasters of America. I do not object to this bill in any way, except that through some oversight, I imagine, the yardmasters as a craft have not been mentioned in it as having the power to appoint one of the adjustment boards under section 8. My organization holds the contracts for yardmasters of the majority of eastern carriers and a great many of the western carriers. There would be no adequate way of protecting those contracts. That is the only objection I have to the bill.

The CHAIRMAN. Do you want to say something, Mr. O'Neil?

Mr. O'NEIL. I represent the supervisors of mechanics. We have a national organization, not affiliated or associated with any other organization of railroad employees or subordinate officials.

The CHAIRMAN. How many are there in that organization?

Mr. O'NEIL. I have the personal signatures of approximately 18,000 of such men.

The CHAIRMAN. And you are opposed to the bill; are they opposed to the bill?

Mr. O'NEIL. I would have to read my statement, Senator, for you to get me clearly as to just how I stand.

The CHAIRMAN. Well, if you file it we will read it.

Mr. O'NEIL. This is of such great importance that I would certainly ask you to bear with me here. I can read the statement in 20 minutes.

The CHAIRMAN. We have to attend the Senate in a few minutes. I think the committee can read just as well as it can listen.

Mr. O'NEIL. Mr. Chairman, but there are so many important features in this presentation, at least from my viewpoint, that I would certainly like to have the pleasure of presenting it to you. It is not lengthy.

The CHAIRMAN. You may present the statement to the stenographer, and if we have any other hearing we will let you know.

Mr. WARFIELD. Mr. Chairman, Warfield is my name——

The CHAIRMAN. The committee will now have to adjourn.

Mr. WARFIELD. May I file my brief?

The CHAIRMAN. Certainly; anyone can file a brief who wishes to.

STATEMENT OF L. W. FAIRCHILD, PRESIDENT PROTECTIVE ORDER OF RAILROAD TRAINMEN

Mr. FAIRCHILD. Mr. Chairman, the colored transportation employees (brakemen, switchmen, and train porters) in the service of the various railroads subject to the provisions of the transportation act do herein make a specific protest against the adoption of the erroneously composed Howell-Barkley bill.

We beg to enter this written protest in connection with other protests which we understand are made by organizations representing railway employees and subordinate officials not specially provided for in the proposed bill, S. 2646.

We further beg to submit, in order to more clearly define our contentions, the following presentations dealing directly with the wishes, rights, and privileges of the colored train-service employees in the United States of America.

From information contained in the digest of the railway labor act herein referred to, drafted, and submitted by the railway organizations supporting the proposed act, we find that none of the organizations specially mentioned in either of the four groups will admit to membership colored train service employees.

It should be observed that these are evidently "self-styled," standard, recognized, railroad labor organiza ions. It is thoroughly understood that section 307 of the transportation act of 1920 does not discriminate against any organizations of railroad employees in matters of representation The United States Railroad Administration refused to nterfere with internal jurisdictional matters of railroad labor organizations. It appears, however, that such action was desired or advocated by some of the railroad labor organizations. This is indicated in the construction of paragraph 5 of General Order No. 8, issued by the United States Railroad Administration which states in part:

"No discrimination will be made in the employment, retention, or conditions of employment of employees because of membership or non-membership in labor organizations."

In order to prevent any organization of railroad employees from arbitrarily taking jurisdiction over, or assuming the exclusive right to represent railroad employees without their free consent, the United States Railroad Labor Board incorporated into decision No. 119 the following:

"No discrimination shall be practiced by management as between members and nonmembers of organizations, or as between members of different organizations, nor shall members of organizations discriminate against nonmembers or use other methods than lawful persuasion to secure their membership. Espionage by carriers on the legitimate activities of labor organizations or by labor organizations on the legitimate activities of carriers should not be practiced."

In decision No. 119 the Labor Board promulgated a principle as follows:
"The right of employees to organize shall not be obstructed."

It is an admitted fact that the colored train-service employees are prohibited from active membership in any of the organizations mentioned in the proposed Howell-Barkley bill. It is therefore their privilege as a matter of right to maintain undisturbed membership in their organizations. These organizations being thus composed of colored train-service employees, employed on railroads subject to the act, should not be prohibited from functioning as recognized organizations in the future representation of their members. The bill in question, if enacted into law, unduly affects the rights and privileges of their members, and will automatically drive out of existence "these organizations," which have represented their members in various disputes before the United States Railroad Labor Board. This bill, if enacted into law, will indirectly say to more than 11,000 train-service employees, coming under the jurisdiction of these organizations, that they have no voice to speak in the defense of their civil rights and liberties. It would further indicate that though these are railroad employees, and in active service on railroads subject to the act, they are not permitted to submit their contentions on questions of wages or working conditions as organized railroad employees. We believe that such a condition is inconsistent with the provisions of the Constitution of the United States. The mere fact that none of the organizations, according to our understanding, mentioned in the Howell-Barkley bill, will admit to membership colored train-service employees, disqualifies them as being designated therein as the only "standard recognized organizations." We believe it to be very unjust, and should be unlawful, for any organization or number of organizations to assume arbitrary powers over or to curtail the free privileges and rights of employees whom they will not admit to membership.

It can be noted that none of the organizations mentioned in the Howell-Barkley bill even claims to represent train porters. The fact that these employees have been in the service of the carriers at all times previously, fully establishes their positions as being very essential. These men are dependent upon this service for their livelihood, they have as other employees, made this occupation a life's study. They are experienced, trained, fitted and prepared to perform this service efficiently. If the Howell-Berkley bill is enacted into the laws of the United States, the representation of these employees, according to our understanding, will under such a law be prohibited. Such an act, would indicate that through these are railroad employees, they have no right as such to be classified or represented as organized employees. This would be made possible by the reason that none of the organizations which would be made standard, and given exclusive rights to represent railroad employees and subordinate officials, will permit to active membership train porters.

It has been constantly intimated by some of the executives of labor organizations that the colored brakemen are unfortunate, in some instances this expression has been made by some of the members of the United States Railroad Labor Board on the account of the Brotherhood of Railroad Trainmen not admitting them to active membership. We do not agree with such a presumption; we feel that if we are not permitted to become active members in the Brotherhood of Railroad Trainmen, we should at least as railroad employees be free to create an organization of our own.

It further appears that such an organization, having been so created by colored railroad employees, should as a matter of constitutional rights be recognized as a standard organization for its members without question. To curtail the recognition of railroad organizations indirectly drives the members thereof into such organizations as will have recognition. None of the organizations which would be made standard recognized organizations through the enactment of the Howell-Barkley bill into law will admit to active membership colored brakemen. For this specific reason the colored brakemen have every reason to most viciously protest against the enactment of the Howell-Barkley bill into the laws of the United States. By very careful consideration and review of the bill we find that the enactment of the bill into law would result in a condition which would mean the ultimate end of employment and retention of colored brakemen on railroads subject to the act. The approval of this bill as it reads would indirectly uphold the recognized organizations thereunder in their stand against the admission of colored brakemen as members or, in other words, say to the colored brakemen frankly that they have no right to create an organization of their own. Such an act, in our opinion, would be very partial and out of harmony with the principles of our free Government.

In our jurisdiction there are many colored switchmen; none of these employees are permitted to affiliate with the white unions. According to the provisions of the Howell-Barkley bill, if it is enacted into law, all of these employees would by law be deprived of representation. These are employees of the railroads subject to the act, and since it is an established fact that they can not become affiliated in any of the organizations which would arbitrarily take jurisdiction over, and curtail the individual representation of all classes of employees in this service should the said bill become a law, it is therefore, the free right and privilege of colored switchmen to create an organization of their own. Such organization should not by the enactment of any law, be prohibited from full and complete recognition as a standard for colored switchmen. The colored switchmen are not to any degree willing to trust their representation exclusively in the hands of any organization which will not admit them to membership. We believe that we are fully substantiated in this contention because if we are not permitted to take active membership in such organizations, we have no intelligent method of informing such organizations of our wishes as employees of the railroads. We believe that when the facts are presented, dealing with the many discriminatory features of this bill, not only against the colored unions, but all railroad unions not specifically mentioned therein, the United States Senate will, as an act of common justice, and with due courtesy to the principles of our free Government, reject the enactment of the Howell-Barkley bill into law.

We note that section 1 (a) 7 of the proposed Howell bill provides for an amendment to the occupational classification established by the Interstate Commerce Commission in its order dated April 18, A. D. 1921, and entitled "Rules governing the classification of steam railway employees and reports of their service and compensation." This section provides that no change in classification be made until the same has been approved by the Interstate Commerce Commission after due notice and hearings, etc. This is embraced in lines 1 to 22 of section 1 (a) 7. We protest against any change in the specific rules promulgated by the Interstate Commerce Commission as of April 18, A. D. 1921, on the classification clause. We believe that in any instance where reclassifications are made by mutual consent of the employees interested, and the carriers where such reclassifications are made sign written agreements covering the same, such reclassifications should remain undisturbed by any process of hearings.

In view of our protest as herein above stated, and desiring to join in the general protest made by the other organizations representing railroad employees and subordinate officials not specifically mentioned in said bill, the Protective Order of Railroad Trainmen, Association of Colored Railway Trainmen, and Association of Train Porters do herein most sincerely and respectfully petition the Senate of the United States, through the Senate Committee on Interstate Commerce, to defeat or refuse to enact the Howell-Barkley bill.

Trusting that your honorable committee will carefully consider the foregoing to the end that full and complete justice may be given the Protective Order of Railroad Trainmen in the matter of representation, believe us to be.

This is signed by L. W. Fairchild, president Protective Order of Railroad Trainmen; J. L. Eiland, president Association of Colored Railway Trainmen; and Arthur Hill, secretary Association Train Porters, Brakemen, and Switchmen.

STATEMENT OF J. P. MACDONALD, REPRESENTING THE CLERICAL EMPLOYEES' ASSOCIATIONS OF THE PENNSYLVANIA RAILROAD SYSTEM

Mr. J. P. MACDONALD. We, the duly elected representatives of the Clerical Employees of the Pennsylvania Railroad System, authorized to act for approximately 30,000 clerks, have studied Senate bill 2646 with the intention not to partisan vindictiveness but rather from the viewpoint of what best serves the necessity created by employment relations, and have reached a conclusion that the enactment of Senate bill 2646 will not meet harmoniously or unfettered the requirements of all interested in employment relationship, giving it as it does, in our opinion, preferential treatment to certain organizations, not in our case representative of the employees. We submit for your consideration our basic reasons for this conclusion.

Prefacing our objections to the passage of this bill, we invite your attention to the fact that the conditions required as paramount in this bill, and phrased under the title "Operation," section 2, have been in successful existence under our plan for the past two and one-half years, and we have proven thereby the unwarranted necessity of creating boards of adjustment, mediation, conciliation, and arbitration which will simply add to the national expenses and increase further individual taxation, which now is the subject, without this added expense, of severe criticism.

Section 3, paragraph 1, page 6, line 16, pertaining to the designation of representatives of carriers and employees and subordinate officials to conduct conferences for consideration of disputes:

It is here provided that representatives may be designated as such, regardless of their employment with and upon the railroad affected. In our experience we find it to our advantage to rely upon those most interested in a controversial subject for its just settlement, avoiding thereby the admixture of foreign sentiment usually in the mind of a total absentee representative, caused by associations and habitual partisanship. With due deference to the legal talent employed by the proponents of this bill, we are still unsatisfied that his plausible statement concerning the second clause of section 3 does not preclude what it is his pleasure to call a "company union" from functioning under the terms of this bill. We think the counsel will agree with us that whatever his personal opinion and desire in the present circumstances may be, they will not be authentic criteria for interpretation of this bill, should it become a law, unless the ambiguity of the present terms are clarified by his explanation prior to the passage of the bill. Specifically, this clause provides, "without interference, influence, or coercion exercised by either party over the self-organization or designation of representatives by the other, and it shall be deemed a violation of the obligations herein imposed upon carriers for any carrier or its officers or agents to interfere with or attempt to influence or control, directly or indirectly, the organization of employees or subordinate officials, or participate in the functioning thereof or the designation of employees or subordinate official representatives." We are not at all concerned, as seemingly are the proponents of this bill, over what they term undue influence and coercion, because we have never been subjected, nor will we be subjected under our method of doing business, to such methods.

We are concerned vitally in the ambiguity employed. Quite rightly it is to be presumed that the proponents of this bill expect to effectually relegate what they are pleased to call "company unions" to the scrap heap by maintaining that functioning self-organizations can not be such unless they are independent financially, as well as independently self-governed. Obviously if the pacifying statements of the proponent's counsel that the actual language of this section was intended to mean what he says it is intended to mean, there should be no hesitancy on his part to a clarification and elimination of the ambiguity and the duality of purpose contained in this section.

We hold that to successfully conduct tranportation uninterruptedly it is essential that there must be a mutually harmonious relationship between the employees and the management of the carrier, which can only be successfully developed by contact with

and participation in the intricacies peculiar to the railroad business, and that the only logical means of a common understanding is a common partnership of responsibility in the operation of the carrier, instead of a constantly nurtured ambition for supremacy of one party over the other. In our opinion, there is greater mutuality of purpose between employees and the management when the responsibility of proper conduct is peculiarly their own and not capable of avoidance by reference to outside agencies, and that these representatives closely associated with their constituents are of necessity more faithful to, and watchful of, their needs than would be the officers of a so-called nationally organized craft, removed as they are from the consequences of their action, because any conditions we accept are equally applicable to us, as representatives, as they are to any other individual of our craft.

Apparently the proponents of this bill, in their zeal for self protection, created by a misunderstanding of the functioning of such organizations as ours, are conversely attempting to interfere with the private functioning of any organization by creating, if possible, a law such as proposed, which specifically contemplates unflexible, legal interference with the individual desires of railroad employees, thus attempting to usurp to the exclusive benefit of so-called nationally organized associations a dictatorship that they at the same time condemn.

This section contemplates a practically continuous and haphazard method of disposing of controversial subjects, that, through its prescription of time limits, is entirely wasteful to the proper utilization of the energy and time of the conferees. In opposition to such haphazard and continuous unrelated meetings, we have a system of dates set up for one year in advance, at which time, on five days' notice, all controversial matters can be taken up and settled or appealed, thus providing a business-like and economically sane method of procedure.

Up to this point in the proposed legislation the real intent of its proponents has been veiled in ambiguity, but in reaching the vital part of their attempted self-advantage legislation, they clearly disclose their purpose of dominating by legal sanction—because they can not dominate otherwise—the individual desires and wishes of all the employees. The heretofore unsupported assertions of some of these so-called nationally organized crafts that they represented a majority of their craftsmen is a matter which should receive far more serious consideration than the mere assertion that such is a fact, unless such assertions are substantiated by documentary evidence as proof. It seems a fair question, then, to ask why, if they actually do represent the majority claimed, they should seek legal protection in the form of restricting membership on what they are pleased to call national adjustment boards to those nominated by what they are likewise pleased to call nationally organized crafts. It seems evident to us, in the light of our experience, that the recognition of the growing impotence of some of the so-called nationally organized crafts actuates them to an attempted legislative prominence that is not rightfully theirs; thus, in our opinion, attempting to foist class legislation upon the public in the name of peaceful industrial relationship, whereas in reality it is the only measure left for the perpetuation of the leadership of some of the so-called nationally organized crafts,

due to the growing recognition of the employees that they are best served when self-serving.

Could this contention not rely for support upon the obvious inequalities of make-up suggested for the adjustment boards? Specifically, is it not quite noteworthy to compare the number of employees to be served by board No. 1, consisting of 14 members, to serve, approximately 440,000 employees, whereas board No. 3 has six members to serve approximately 850,000 employees. Does not this apportionment made, we presume, by the proponents of this bill accentuate the weakness of some of the so-called nationally organized crafts when attempting to coordinate themselves for self-elevation with other perhaps stronger so-called nationally organized crafts?

In fairness to our association, we representatives can not fail to take cognizance of, and direct issue with, certain testimony given before your committee, that must be based on misconception or purposeful disregard of the facts. We refute the charge of the proponent's counsel that we are either ignorant or inclined to misrepresentation of acts in the following statement:

In appearing before this committee, we have a dual purpose; firstly, to prove, by attendance of our own volition, the fact that we are an organization, officered by independent men, who are appearing before you to testify orally if desired, in addition to this brief, so that there may be no suspicion of censorship over our actions; and, secondly, to protect our constitutents, who have expressed themselves in a substantial majority as favoring our method of representation. Should your committee desire substantiation of this claimed majority, we will be pleased to supply it.

It is asserted that we are not free-minded in the execution of our work and that we are subject to coercive tactics and interference on the part of the management of the Pennsylvania Railroad system. Perhaps the best denial of this assertion is a concise explanation of our mode of procedure. When employee representation was established on the Pennsylvania Railroad system, the management thereof necessarily had to present to us a set of proposed regulations covering our respective actions to initiate the program and so that we could determine whether or not the proposed regulations were satisfactory to us. These regulations were considered by ourselves and the management and substantial changes were made in the context of the regulations submitted by the management, after which the regulations, then being satisfactory to us, were accepted and signed by the contracting parties. Subsequent to this, and as changing conditions necessitated, we have altered and amended these regulations until at the present time they are superior to those of 40 major railroads of which we have record.

To insure that the provisions of these agreements are properly applied, three employees are elected by the clerks on each division to represent them; the representatives so chosen select from among their number what is known as a regional adjustment committee; in addition, the representatives elected by the clerks choose, from among their number, their representatives on what are known as joint reviewing committees, composed of an equal number of the craft and of the management representatives, who decide all cases appealed from the decision of the general manager. A two-thirds vote is necessary before a decision can be reached by the joint reviewing committee,

and should deadlock ensue, provisions are made for arbitration of a mutual and satisfactory character.

Each divisional committee has a regular meeting date each month with the superintendent of their division, at which time all controversial matters are taken up. Failing in disposition of these cases, they are referred by the respective parties to their regional adjustment committee and to the general superintendents and general managers for further adjudication. These subsequent meetings are held within the same month, thus insuring expeditious handling. Failing in settlement with the general manager, cases are referred to the aforementioned joint reviewing committee consisting of an equal number of employees and representatives of the management, who meet bimonthly.

In the past two and one-half years we have amicably settled approximately 1,700 cases without recourse to any outside tribunal, and concurrently we have handled one general wage reduction and two general wage increases without recourse to arbitration or an outside tribunal. Does this not meet fully the desire and necessity expressed on page 5, under the title "Operation," of the general duty of this said bill, without the elaboration of outside influence comprehended therein at a total aggregate expense of hundreds of thousands of dollars.

It is significant to note the number of cases handled when considering the testimony of the proponents of this bill that we are a paper organization, and amenable to the coercion and influence of the management, and emphasizes the close policing of our regulations by the representatives—the so-called instrumentalities of the management—and the display thereby of the mutual cooperation of the employees we represent.

In deference to your suggestion that we refrain from reiterating the details of fault in this bill that have previously entered your record, we will refrain from a chronological list of our exceptions.

Originally it was our intention not to appear before your committee in protest of this measure, our feeling being that its ulterior motive would be obvious to you and that we could best serve ourselves, and perhaps your committee, by continuing our practice, of two and one-half years standing, of attending strictly to our own affairs, thus continuing to avoid the necessity of elaborate governmental regulations of matters that we deem are primarily our own and that of the management, with the added responsibility of so handling these private affairs that they do not turn into a public nuisance.

The acrimonious attacks, appearing throughout the testimony before the committee, upon our association and the personal character of the elected representatives thereof, on the part of the partisan proponents of this bill, can not be allowed to pass without correction, for as we have pointed out before, they have been made either purposely to mislead the committee, or in the realization of their own weakness without this class legislation, they have resorted to untrue statements in a desperate effort to protect themselves.

We are accused of being incompetent to honestly legislate for the employees we represent, because our wages are not paid through the assessment of dues levied on our constituents, and because we are bettering the conditions of our craft without extracting princely salaries and luxurious living expenses from the earnings of the

individual employees. We maintain that it is perfectly legitimate for the company to assume the expense of this work, for the reason that our joint actions are conducive to the avoidance of misunderstandings resulting in disputes that might eventually lead to an interruption of transportation.

It is illegitimate to charge this expense to the operation of the railroad, which on account of its nominal character can be done without injustice to the owners and without injustice to the public because the Pennsylvania Railroad system does not, and could not, charge rates in excess of those authorized as reasonable and fair by the Interstate Commerce Commission. Is it not more logical for this expense to be borne by the carrier, who is primarily responsible to the public, than it is for the so-called nationally organized crafts to feel that they have the right to expect the general public to pay the salaries and expenses of their selections to governmental boards, amounting to hundreds of thousands of dollars annually? If it is wrong to perpetuate the plan under which we are working because the company assumes what we consider legitimate expenses, it is manifestly out of all reason to argue that the general public should be saddled with the expense that is the natural result of class legislation, as contemplated in Senate bill 2646, for the accommodation of 20 so-called nationally organized crafts.

It has been asserted that we are "puppets" of the management, totally lacking of self-initiative and the qualification of leadership. If these qualifications said to be lacking inculcate narrow-mindedness and class feeling to the exclusion of the rights of individuals to pursue their affairs as they see fit, we plead guilty to the charge. We can not put any other construction on such testimony, for if it was not the product of such perverted minds it would not be made. If the same efforts had been made to learn the facts as have been expended in conjuring in the minds of vindictive partisans a condition to their liking, they would have learned that we are free agents, having self-autonomy within our associations, and that the management, who they claim exerts an undue iflnuence within our ranks through our method of organization, are actually excluded under the terms of our regulations, by-laws, etc., and in actual fact.

It is asserted that we hold conventions and are elaborately and pleasingly entertained by the management. We hold conventions; we hold monthly meetings; we hold extemporaneous meetings; and they are all held to the exclusion of the management and at only what reasonable expense is needful to accomplish our purpose; and we regret to inform you that it has not been our privilege so far to be so fortunate as to be the recipients of a pleasing entertainment program provided by the management for our amusement.

We have been accused of being in the category of a public official who has betrayed his trust. We are at a loss to account within reason for this assertion. We will be pleased to submit to the committee copies of our regulations, statements of our rates of pay, etc., should the committee desire, so that you can prove to yourselves the absurdity and willfulness of this charge, for you will easily be convinced that our regulations are superior to and our rates of pay equal to or better than rates of pay and regulations that have been negotiated by the alleged superior ability of the officers of some of these so-called national labor organizations.

It is enlightening in this connection to notice that Senate bill 2646 contemplates the establishment of adjustment boards, conciliation and mediation, and finally arbitration. For two and one-half years we have had exactly this in our own local affairs, as we have explained to you previously. If our leadership was so lacking of intelligence, as alleged, and so reactionary, we are wondering how such an arrangement could have been embraced so much in advance of the rather mangled attempt of duplication proposed in this legislation.

It is asserted that we gained control by subterfuge and managerial manipulations. On the ballot distributed for this determining election a blank ballot was used, which gave everyone the right of electing from among their number whomsoever they pleased, provided, however, they followed the customary procedure in this democracy of electing an individual. We believe no Senator on the committee will subscribe to the un-American proposition that elections be conducted in the name of political parties, these parties afterwards selecting a Senator of their choice. This is just what the so-called nationally organized crafts claim they have the right to do. The employees are to vote for a craft by its official style, and, having done so, the so-called nationally organized craft will designate the individual representative whom they wish to represent these employees, thus depriving the employees of the freedom to vote for the individual of their particular choice, thereby disenfranchising the individual membership and arrogating to the despotic leadership of these so-called nationally organized crafts the right to perpetuate themselves in office.

In conclusion, it is a curious detail to note that some of the so-called nationally organized crafts have conspicuously omitted to refer to the results of our efforts that have produced our present working conditions and rates of pay, which, as we said before, are equal to or superior to any other working conditions or rates of pay negotiated by some of these so-called nationally organized crafts. It would seem that if their attack on our personalities, capabilities, and integrity had the semblance of good faith or truthfulness, they would have also attacked what would have been the self-evident result of these attributes. It is hoped that your committee will not accept as facts the unsupported statements of the proponents of this bill tending to cast doubt on our probity.

STATEMENT OF E. PETERMAN, REPRESENTING THE GENERAL COMMITTEE ASSOCIATION OF CRAFT EMPLOYEES, ALTOONA WORKS, PENNSYLVANIA RAILROAD SYSTEM

Mr. PETERMAN. Mr. Chairman, the mechanics of the Pennsylvania system, Altoona works, apprentices, and helpers offer to submit to this committee a joint objection to this bill (S. 2646) providing the plan contemplated creating the four adjustment boards wherein the principle is established that only the nationally organized crafts are considered in the creation of said boards.

Mr. Chairman, the principle set forth in this bill, we believe, is not in accord with American ideals, precepts, and usages legislatively and judicially.

It is an attempt to class legislation in that it recognizes certain classes or groups of nationally organized unions and denies recogni-

tion and representation to other numerous organized or unorganized craft, one of which is the plan of direct employee organization.

Reference was made in their defense of the contemplated bill of the word "class" consciousness on the part of financial and capitalistic interests in their attempt to prevent labor organizations to exert a united influence as regards their side of controversy, and Mr. Thom, the attorney for the railroads, significantly made reference in his talk as to the possibility of educating not only the public but employees to the fact that it would be to everybody's detriment to suspend activities; or in other words, engage in strikes.

We believe, furthermore, Mr. Chairman, that labor, whether acting in or through a labor union or otherwise, thinks that the time has come and passed due to the highly organized social and economic utilities that makes of the Nation aye, society a complete dependency upon these utilities for their existence, that an interruption in transportation through strikes is not only a weapon but is destructive in all its ramifications to the workers themselves.

Mr. Chairman, as we are protesting the lack of provisions for employees representation in this bill and as this bill is for labor legislation to provide means to prevent a stopping of transportation of the country, we would like to present a few facts about Altoona works, which was the first part of the Pennsylvania system to adopt the employees' representation plan.

We wish to present it because it is the largest individual railroad shop center in the world and did not strike in 1922 during the nation-wide strike of the shop crafts, because the employees were satified with the agreement entered into with the management.

The representatives were elected in June, 1921, by secret Australian ballot. We deny the charge made here that the rules and regulations were handed to us by the company but were made in a four weeks' session with the management. We jointly formulated rules and rates agreeable to both sides, which went into effect July, 1921. The rules were formulated because the labor board had handed down a decision abolishing the national agreement and ordered the railroad company as provided in the transportation act to formulate rules and working conditions with their employees.

The council of the proponents of this bill, designated the representatives as paid agents of the company and we wish to say that the Pennsylvania Railroad system representatives to-day are not paid agents of said company, but an elected representative body of men who have voluntarily consented to act as representatives of the various crafts and are simply made whole for time lost and the return of expenses as traveling, hotel and any other regular expense incurred.

The Altoona works is the manufacturing center of the Pennsylvania Railroad, made up of highly skilled mechanics. The representatives of Altoona works work every day at their occupation with the other men, except the hours set apart for committee work. The expense of committee work at Altoona is less than $1 a year per man employed in the works, a small amount for perfect harmony, when you think a strike of the works in 1922 would have cost the railroads, manufacturers, millions of dollars and public in general greatly inconvenienced.

The interest in employees representation in Altoona is manifest when at our last election in June 1923, 93 $\frac{6}{10}$ per cent of all crafts voted.

We have had 559 cases before the master mechanic and general foreman in the four units of the works. Four hundred and forty of the cases were settled, 117 withdrawn, and 2 appealed.

We have had 78 cases before the works manager; 69 were settled, 6 withdrawn, and 3 pending.

The results show that the great number of questions can be settled with the shop mangement. We have a joint reviewing board to which we can appeal cases from the management, but so far we have had no occasion to appeal any case, the employee being satisfied with the decisions. Not one of the 800 cases pending before the Labor Board were presented by members of the Pennsylvania system employees representation.

The strike of 1922 was a test of our plan when Altoona works remained at work. On the strike being called 49 men walked out. After six weeks of labor organizers, together with a minister whom they had employed urging them to strike, about 300 more men went out, this being an insignificant number of the thousands employed. This showing is in direct contrast with that of October, 1919, when there was a strike of the 13,000 men of the Altoona works.

The men were then ruled by the American Federation of Labor. Why they struck was because they were under rules they did not help to make and did not vote for, nor never saw until after they were passed by the heads of those organizations and put into effect.

We are not antagonistic to organized labor, but we do go on record before the Nation that we have the right to exercise our constitutional rights and privileges in behalf of peace and order.

Mr. Chairman, our experience is that no national body or bodies can form rules and working conditions, to apply nationally, where the road and shop conditions are as different as day and night.

In accordance Mr. Chairman, with the principles heretofore set forth in our brief, we ask this committee to give due consideration to the system of direct employee representation as now in operation on the Pennsylvania Railroad system.

STATEMENT OF M. S. WARFIELD, PRESIDENT ORDER OF SLEEPING CAR CONDUCTORS, 2,275 MEMBERS; AND REPRESENTING BROTHERHOOD OF DINING CAR CONDUCTORS, MEMBERSHIP ABOUT 1,500

Mr. WARFIELD. Mr. Chairman and members of the committee, on behalf of the conductors employed by the sleeping car companies, whose interests would be affected, I ask an unfavorable report on bill S. 2646, referred to your committee February 28, for the following reasons:

The bill has been prepared and presented to Congress with the assistance of the representatives of certain railroads brotherhoods, which indicates that its primary purpose is the settlement of disputes involving grievances, wages, and working conditions. These crafts do not represent the railway workers as a whole and therefore no such legislation should have been taken up without conference with the representatives of all crafts to be affected. Failure to enter into such general conference has resulted in the preparation of a bill outlining a method for the settlement of disputes to suit the aims and purposes of the larger crafts, leaving the smaller ones

without direct representation, and it is the smaller ones that are most in need of efficient methods for prompt settlement of disputes. This would be more apparent in event this bill becomes a law. Experience has shown us that advantages are gained by one class at the expense of another whenever the employer finds defenseless shoulders upon which the burden may be shifted. The proposed bill would leave many employees in just that position.

The fact that the bill does not provide equal facilities for all classes of railway workers should, in our estimation, be sufficient to condemn it.

It establishes an extensive and costly system for the settlement of disputes which, however, can not function successfully without the mutual consent of the parties to any controversy. Our own experience clearly indicates that such mutual consent would not be forthcoming, and there is nothing in the proposed bill to create the incentive. Indeed, if any organization in dispute with the carrier were not sufficiently powerful to threaten interruption to interstate commerce, the dispute in all likelihood would be ignored, and the machinery created by law ostensibly to care for such a situation, would be impotent.

If this bill is to be considered as a means to avoid interruptions to interstate commerce, it is not convincing, as the arbitration of disputes is merely of a voluntary character. If the present law has failed in this purpose, the one proposed can hardly be expected to improve the situation, since it enables the carriers to refuse to negotiate to a conclusion without even the semblance of a violation of law. To grant the right of employees to organize without interference from employers, unless accompanied by effective methods for the proper functioning of such organizations, means nothing to a large number of employees, who, unfortunately, are split into small groups by classification. Since the bill itself gives attention only to the larger crafts, it is apparent that recognition and respect for organizations will be contingent upon numerical strength. Thus, the very structure of the bill beckons employers and employees into divergent paths, while supposedly encouraging closer cooperation. It is not difficult to see that employers could conveniently ignore the requests of their employees for better wages and working conditions unless the organizations representing them were of sufficient numerical strength to threaten interruption to interstate commerce.

The transportation act at present provides for the establishment of boards of adjustment by mutual consent. Since there has been a refusal to create such boards voluntarily, it does not seem reasonable that if they are created by law there would be any change in the attitude toward them.

If the bill is to be considered solely from the standpoint of preventing interruptions to interstate commerce, without thought for the preservation of adequate wages and rational working conditions, it is purely experimental, containing no promise of success. If, however, the welfare of employees is a factor, it lacks the very principles necessary to make it equitable in practice, by ignoring those crafts most in need of attention.

We believe in the American spirit of fair play. We contend for the right to organize without interference or influence from the employers. We also feel that the benefits to be derived from such

organization should be based upon equity regardless of the number involved in a dispute.

STATEMENT IN BEHALF OF THE SHOP-CRAFT EMPLOYEES AND CLERICAL AND STATION SERVICE EMPLOYEES OF THE SOUTHERN PACIFIC LINES IN TEXAS AND LOUISIANA, REPRESENTED BY THE ASSOCIATION OF SHOP-CRAFT EMPLOYEES AND THE ASSOCIATION OF CLERICAL EMPLOYEES

HOUSTON, TEX., *March 26, 1924.*

Hon. ELLISON D. SMITH,
Chairman Committee on Interstate Commerce,
Washington, D. C.

DEAR SIR: The shop-craft employees and the clerical and station service employees of the Southern Pacific lines in Texas and Louisiana, numbering approximately 8,000 employees, and who are members of the association of shop-craft employees or of the association of clerical employees, have asked for the privilege of appearing before your committee to offer their solemn protest against the enactment into law of Senate bill 2646.

We understand that the bill was drafted by what is known as the standard railroad labor organizations which operate nationally and a reading of the bill impresses us with the fact that it has for its purpose the annihilation of the organizations of employees who are not affiliated with the national labor organizations.

The employees of the Southern Pacific lines in Texas and Louisiana, whom we represent, and in particular the shop-craft employees, have had a very sad experience as a result of representation by the national labor organizations and in this connection, we desire to call your attention to the very disastrous strike called by the railway employees' department of the American Federation of Labor, effective July 1, 1922. This strike was called for the purpose of intimidating not only the railroad managements but the people of the country and the United States Railroad Labor Board, a tribunal which was created by an act of Congress for the express purpose of deciding all disputes which were not decided in conference by the railroad managements and representatives of its employees.

This action, in itself, is proof of the fact that these national organizations do not have at heart the interest of the employees and, we may say, the interest of the public at large. The employees of the Southern Pacific lines had no grievance against the management, were satisfied with the rates of pay and working conditions promulgated by the United States Railroad Labor Board, but were forced into a strike because the leaders of these national labor organizations were not willing to abide by the laws of this country. The management of the Southern Pacific lines, on the day preceding the strike of July 1, 1922, called the local leaders of these national labor organizations in and inquired of them if they had any pending grievances or any unadjusted matters, and these men were forced to admit that there were no grievances existing on the Southern Pacific lines, and the only answer that these national labor leaders were able to make was that they were forced into this strike by the presidents of these national organizations and further that they were able to offer no justification whatever for the employees on these lines being forced to relinquish their positions. As this conference progressed the only justification that these men offered for the strike was that the railway employees, department of the American Federation of Labor was not satisfied with the treatment accorded the shop-craft employees on certain eastern railroads, and neither were they going to accept decisions of the United States Railroad Labor Board with respect to rates of pay. We shall not burden this committee with all of the details in connection with this occurrence, as we feel satisfied that the committee is acquainted with the facts, and we will content ourselves in this particular by calling your attention to the recent report made to Congress by the Attorney General of the United States, which shows the length to which these labor organizations will go in their efforts to force conditions which can not be justified. This occurrence was sufficient to impress the United States Railroad Labor Board with the absolute necessity, in the public interest, for the employees on each railroad to form their own associations and thereby establish local self government. On July 3, 1922, the United States Railroad Labor Board passed the following resolution:

"Whereas, the six organizations comprising the Federated Shop Crafts have notified the Railroad Labor Board that a very large majority of the employees

which they represent have left the service of the carriers, that the members of said organizations are no longer employees of the railways, under the jurisdiction of the Railroad Labor Board or subject to the application of the transportation act; and

"Whereas, the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, United Brotherhood of Maintenance of Way Employees and Railway Shop Laborers, International Brotherhood of Firemen and Oilers, and Brotherhood Railroad Signalman of America have also made known to the board that they have put out strike ballots on all or a part of the carriers which may result in the classes of employees which they respectively represent leaving the employ of the carriers; and

"Whereas in the future submission of disputes involving rules, wages, and grievances of said classes of employees of the carriers, it will be desirable, if not a practical necessity, for the employees of each class on each carrier to form some sort of association or organization to function in the representation of said employees before the Railroad Labor Board, in order that the effectiveness of the transportation act may be maintained: Now, therefore, be it

"*Resolved*, That it be communicated to the carriers and the employees remaining in the service and the new employees succeeding those who have left the service to take steps as soon as practicable to perfect on each carrier such organizations as may be deemed necessary for the purposes above mentioned; and be it further

"*Resolved*, That any carrier where either of the above-named organizations, by reason of its membership severing their connection with the carriers, ceases to represent its class of employees, procedure similar to that above suggested in the case of the shop crafts is recommended; and be it further

"*Resolved*, That the employees remaining in the service and the new ones entering same be accorded the application and benefit of the outstanding wage and rule decisions of the Railroad Labor Board, until they are amended or modified by agreements with said employees, arrived at in conformity with the transportation act, or by decision of this board; and be it further

"*Resolved*, That if it be assumed that the employees who leave the service of the carrier because of their dissatisfaction with any decisions of the Labor Board are within their rights in so doing, it must likewise be conceded that the men who remain in the service and those who enter it anew are within their rights in accepting such employment, that they are not strike-breakers seeking to impose the arbitrary will of an employer on employees; that they have the moral as well as the legal right to engage in such service of the American public to avoid interruption of indispensable railway transportation, and that they are entitled to the protection of every department and branch of the Government, State, and National.

"It is suggested that carriers bulletin this resolution, which was adopted by the majority action of the board.

"By order of

"UNITED STATES RAILROAD LABOR BOARD.

"Attest: "BEN W. HOOPER, *Chairman.*

"L. M. PARKER, *Secretary.*"

A large number of railroad employees throughout the country were in full accord with the resolution of the United States Railroad Labor Board and in accordance with its resolution formed local associations, and under these associations the employees have all the rights of representation accorded by the provisions of the transportation act that they had whilst members of these national labor organizations who led them into disaster and destruction and at the same time permits the employees directly interested to determine for themselves what their wages and working conditions shall be and removes the outside domination that prevailed prior to the establishment of these associations.

A large number of the clerical employees, on whose behalf we speak, established their own associations and appointed their own officers prior to the strike of July 1, 1922. The shop-craft employees, in line with the resolution of the board, perfected their local organization during the month of September, 1922, and since that time we have handled to a satisfactory conclusion with the management of the railroad all questions arising on our lines and for the first time since the railroads were placed under Federal operation we have had peace and harmony and cooperation between the employees and the management. At the date of this writing there is not a single question in dispute and not a single grievance pending between the management and the employees whom we represent, but on the contrary, as previously stated, entire peace and harmony prevail.

Senate bill No. 2646 has for its primary purpose the destruction of these associations, and we wish to say to you in all sincerity and frankness that a large number of the right-thinking railway employees of this country are opposed to the enactment of any law that will have the effect of taking away from all railway employees the right of local negotiation and government with its individual managements and will have the further effect of restoring the absolute domination of the so-called national organizations, thereby making it entirely possible to bring about the same condition that existed in July, 1922, when the nation-wide strike was ordered.

The employees we represent feel that the labor provisions of the transportation act is the most constructive piece of legislation that has been enacted in years and therefore oppose the abolishing of the United States Railroad Labor Board and the institution of the adjustment boards and the board of mediation and conciliation provided by Senate bill 2646. The four adjustment boards are to be bi-partisan, equal representation being given the national labor organizations and the railways, no provsions being made for public representation or for representation of employees who are not affiliated with the national labor organizations and who are hostile thereto. The four adjustment boards, as created, will handle only disputes growing out of discipline and interpretation of existing agreements, having no authority to handle questions involving new rules or new rates of pay. The board of mediation and conciliation is without authority to make decisions and as its designation implies can only use its good offices in bringing about agreements between contending parties. There is no provision made for a tribunal to decide disputes between the carriers and their employees involving changes in working rules and changes in rates of pay.

This, the most vital feature of the entire labor question, is left for settlement between the carriers and employees, unless the contending parties mutually agree to arbitrate. This, to our minds, would create the very condition which Congress sought to avoid, namely, the interruption to the commerce of this country. There are times when questions of new rules governing working conditions and changes of rates of pay arise, where agreements are not reached between the managements and the employees, and in the interest of uninterrupted commerce, it is essential that the United States Railroad Labor Board be continued. The proposed act in its present shape practically enslaves employees not members of the so-called nationally organized crafts and in fact enslaves them to the nationally organized crafts because it allows them no representation on even the boards of adjustment. This appears to us as being taxation without representation.

Respectfully submitted.

E. J. Scott, general chairman locomotive department; W. E. Namendorf, general chairman car department; O. G. Kissinger, general secretary-treasurer, Association of Shop Craft, Employees of the Southern Pacific Lines in Texas and Louisiana; J. C. McDaniel, general chairman; F. Ehlinger, member of committee; J. S. Harrell, member of committee, Association of Clerical Employees of the Southern Pacific lines in Texas and Louisiana; L. E. Levinson, H. T. Wray, members of committee representing general office forces of the Southern Pacific lines in Texas and Louisiana.

STATEMENT OF HALLECK VANDERMARK, VICE GENERAL CHAIRMAN SYSTEM ADJUSTMENT BOARD, CENTRAL RAILROAD OF NEW JERSEY

Mr. VANDERMARK. Mr. Chairman and gentlemen, we appear here as the representatives of 5,700 men employed in the mechanical department of the Central Railroad of New Jersey, organized as shop guilds. Each class of employees is organized into a separate guild, representing his particular trade or character of work, such as the guild of machinists, guild of blacksmiths, guild of boiler makers, etc.

These guilds were organized by the men after the strike of the shop crafts on July 1, 1922, by those who remained in the service, those who returned to the service, and the new men who came into the service. We felt that from time to time disputes might arise between

the men and the management upon which they could not come to an agreement, in which event we felt that we should have some neutral tribunal before which to bring our grievances for adjustment.

The United States Railroad Labor Board was the regularly constituted tribunal under the transportation act of 1920. We felt that we could not properly be represented before this board unless we did so through the agency of such an organization. It has been our opinion, as representing the mechanical department employees, that any grievances upon which we could not come to an agreement with the officers of the Central Railroad of New Jersey would be justly and equitably adjudicated by the United States Railroad Labor Board, the constituted agency of our Government. We have found no reason since our organization to shatter our confidence in the ability, integrity, and availability of this board to settle any differences. We believe in the labor provisions of the transportation act.

We have been very much alarmed at the provisions of the so-called Howell bill, S. 2646, now before the committee of the United States Senate. It imposes conditions that will work directly to the disadvantage of ourselves and all other employees of the railroads who are not now affiliated with the Federated Shops Crafts, and who have deemed it wise to either not associate themselves with any organization or have organized themselves into an independent body.

We believe that if the Federated Shop Crafts, with which we were formerly associated, had recognized the power and authority of the United States Railroad Labor Board, that the disaster that attended them would not have resulted in the burdens that were imposed upon the employees of the railroads consequent upon the strike.

We have already communicated with the Hon. Ellison D. Smith, chairman of the Committee on Interstate Commerce, United States Senate, registering our protest against the enactment of Senate bill 2646, known as the Howell bill. It will entirely exclude us from the rights and privileges which we now enjoy, and which are satisfactory to those whom we represent. If this bill is enacted into law, it will recognize only the nationally organized crafts.

Our experience has been that it has been disastrous to the interests of the men to be associated with any national movement. We believe that conditions on our railroad differ materially from the condition on a railroa_ in the North, South, or West, and that rules and working conditions which apply to those roads would necessarily not in a like, or to an equal, degree apply to the men working on our railroad.

We believe that it is to our interests to be able to adjust our differences with our own management, based upon the local conditions that obtain on our road, and that under such circumstances it would rarely be necessary for us to submit our differences to any national board of adjustment. If necessary, we believe that the present United States Railroad Labor Board will efficiently and properly perform that function.

We are opposed to those provisions of the Howell bill which contemplate the formation of four separate and distinct boards, representing the different classes of employees, separated into groups. The groups are forced and unnatural combinations with diverse interests and without uniform structure.

We believe our local organization is very much more effective and certainly very much more desirable and satisfactory.

If it becomes necessary to appeal to an outside tribunal, we believe that the single board such as the United States Railroad Labor Board is the most desirable.

We believe that it is right and to their interest that all employees should belong to an organization, but when an employee is not satisfied with the actions of his organization, we do not believe that he should be compelled to belong to that organization, or to any other organization.

We believe in the union shop principle, but we do not believe in the absolutely "closed shop" which the provisions of this bill would bring about.

If the Howell bill were enacted into law, it would give certain nationally organized labor associations, with which we are not affiliated, jurisdiction over us. If we did not acknowledge such jurisdiction, then we would be shut out entirely from appearing before the adjustment boards. We protest against this feature of the bill.

We ask for the right to appear and to be heard, outside of and independent of any national organization, and we deny their assumed right to represent us.

We protest against their domination and failure to take into consideration the local conditions that apply alone to our railroad, and to which we are now able to adapt ourselves by agreement with the management, without any difficulty, friction, or discord.

During all of our affiliation with the Federated Shop Crafts we never experienced the peace and quiet that exists among the men at the present time. We have a board of adjustment of our own, and we are invariably able to settle our difficulties through this board of adjustment. We recognize in the United States Railroad Labor Board we have a final tribunal to go to, familiar with conditions all over the country, but agreeable to passing judgment on our grievances in accordance with the rules and local conditions applicable on our own line.

We, therefore, protest against the enactment of the Howell bill into law, and the creation of a new form of adjustment board, compelling us to recognize a national organization, with which we are not affiliated.

(By request of Senator Howell, the following protest against Senate bill 2646 is incorporated in the record:)

PROTEST OF ASSOCIATED EMPLOYEES OF BEECH GROVE SHOPS AGAINST THE ENACTMENT INTO LAW OF SEANATE BILL 2646

The pending bill if enacted into law would compel the entire membership of associated employees to submit to representation in the adjustment of wages, hours, and working conditions by so-called national organizations of employees, with which they have little in common and whose aims and objects differ widely from the aims and objects of the membership of this organization, and the membership would be deprived absolutely of any voice in the adjustment of wages, hours, and working conditions, due to the obvious necessity of yielding to the wishes of organizations as a whole; that is, representation by national crafts in the country as a whole rather than as now, to enjoy representation wherein the shop is a unit.

The effect of the enactment of the pending bill would be to compel the membership of Associated Employees of Beech Grove Shops to abandon present employment altogether or to affiliate with the various national organizations from which

nearly two years ago they voluntarily withdrew in order to preserve their individual interests and to protect their individual well-being.

The effect of the enactment of the pending bill on Associated Employees of Beech Grove Shops would be the utter destruction of this organization, whose membership for a period of two years has enjoyed the most amicable and friendly relations with their employers.

The effect of the enactment of the pending bill would be to make enforceable by law and by the infliction of severe penalties a decision heretofore rendered by the United States Railroad Labor Board, and not now enforceable as such, requiring the Big Four Railroad to reinstate a small minority of men formerly employed at the Beech Grove shops who left their employment to engage in an unlawful and unauthorized strike, in the places of a majority of workmen who did not strike, and to restore wages, hours, and working conditions prevailing prior to February 1, 1922, in lieu of wages, hours, and working conditions which now prevail and which are far more profitable and stisfactory to the employees of Beech Grove shops.

The effect of the enactment of the pending bill would be the abandonment of piecework which now generally prevails in the Beech Grove shops and under which system the membership of associated employees have enjoyed the highest wages ever paid in the history of the shops,.and the restoration of the day rate of wage, involving a substantial loss in earnings by the membership of this organization.

The effect of the encatment of the pending bill will be that the membership of associated employees of Beech Grove shops will lose certain advantages, rights, and privileges heretofore established as a result of joint undertakings by themselves and their employers, to wit: (1) Favorable conditions under which insurance against death, sickness, and disability, outside of the course of our employment, is obtained; (2) special opportunity for educational training; (3) counsel and guidance in the making of safe investments; (4) cooperative purchasing of merchandise and supplies; (5) home-building aids; and (6) cafeteria service at low cost in the shops.

The enactment of the pending bill would result, first, in restoring domination of the Beech Grove shops by the various national organizations of employees and, second, in the revival of an archaic system of production that has become as unpopular and distasteful to the men as it must be intolerable to the employer, a system that is shot through with inefficiency and indifference.

The enactment of the pending bill would bring about such a centralization of power and authority within the membership of approximately 20 established national craft unions that in no case could the representatives of such crafts espouse the cause of more than a bare majority of the membership of the railroad crafts merely, and in such representation there would be a total want of any responsibility to or interest in behalf of organizations of employees not included within the railroad crafts specifically from which adjustment boards will be chosen under the provisions of the bill, and such conditions not only will tend to undermine the whole structure upon which collective bargaining is founded and toward the disruption of such organizations as Associated Employees of Beech Grove Shops specifically and organizations of workmen in the transportation industry generally, but perhaps the complete paralysis of the transportation industry itself, the underlying reason being that representation within the trade-union movement has been intimately responsible to the rank and file of the membership of particular crafts.

Your protestant, Associated Employees of Beech Grove Shops, in protest against a favorable report by the members of your subcommittee on the pending bill and in protest against the enactment of said bill into law, represents and shows:

1. That the Associated Employees of Beech Grove Shops is a corporation organized and existing under the laws of the State of Indiana with no authorized capital stock and not for profit. Attached hereto and made a part hereof and marked "Exhibit A" is a copy of the articles of incorporation. Attached hereto and made a part hereof and marked "Exhibit B" is a copy of the constitution and by-laws of the corporation.

2. That since the year 1907 the Beech Grove shops of the Cleveland, Cincinnati, Chicago & St. Louis Railway Co. have been in operation almost continuously for the building and repair of locomotives and, to a limited extent, for the building and repair of cars.

3. That the Associated Employees of Beech Grove Shops, as a corporate organization, was conceived, initiated, and organized exclusively by the workmen in the shops at Beech Grove without suggestion, encouragement, or influenced whatever and entirely independent of the Cleveland, Cincinnati, Chicago & St. Louis Railway Co. or the Railway Service and Supply Corporation.

4. That the idea of forming an assocaition of workmen in the Beech Grove shops grew out of a desire on the part of such workmen to escape the domination of organizations not similarly situated, a desire to increase our wages and to improve our working conditions both individually and collectively, and to enable us to deal with our employers through one organization, thus the better to protect ourselves in all matters relating to our employment.

5. That many of the members of Associated Employees, before its incorporation, had been employed at piecework in the Beech Grove shops and knew by actual experience that such work results in higher wages and better working conditions and that it was the purpose of associated employees to create a situation whereby we would be permitted to engage in piecework operations, wherein each man's compensation would depend upon his individual productivity, and whereby individual effort and initiative would be specifically rewarded, the members of associated employees realizing that such a situation could not be maintained by the individual actions of the workmen.

6. That from 1908 to February, 1919, the Beech Grove shops were operated largely on a piecework system, although during such years a large number of workmen employed therein were members of the shop crafts unions, the rules of which prohibited such members from engaging in piecework. Although fundamentally and historically opposed to piecework, the system nevertheless was tolerated and condoned by the shop crafts during said years and there were no threats of strikes by the shop crafts during said period in this district nor any disturbances or efforts made by the shop crafts to interfere with the continuance of piecework in such shops, and piecework thus was recognized as the firmly established basis of operation of the Beech Grove shops.

7. That in February, 1919, however, William G. McAdoo, Director General of Railroads, by an order duly issued prohibited the continuance of piecework in railroad shops throughout the country, one of the purposes or effects of such order being to increase the wages of railway shopmen generally throughout the country; but the effect of such order in the Beech Grove shops was to reduce the wages of practically all pieceworkers inasmuch as the day wage which was established was less than the average wage which the workmen in Beech Grove shops had been receiving under the piecework system.

8. That despite the effect of such order as aforesaid the Beech Grove shops were operated on a day-wage system exclusively, and such system continued for approximately three years under rulings, wage schedules, and working conditions established by the so-called "national agreement" and the United States Railroad Labor Board's orders, the national agreement being an agreement between six railway shop crafts of the American Federation of Labor and the United States Railroad Administration.

9. That almost immediately after the institution of the day-wage system, and as a result of the operation of the national agreement, sharp controversies arose between various workmen and shop committees as to the proper division of work, and especially as to whether a given workman should be permitted to perform a particular kind of work, as, for example, under the national agreement the "front end" repair job on a locomotive was accomplished as follows, to wit: A machinist would remove the front end and step back, whereupon a boiler maker, who was not allowed to take off the front end, would remove the netting, and when the netting was removed the boiler maker would step back and a steam fitter would step forward to remove the blower pipes. But the steam fitter was not allowed to remove the exhaust pipe, so back would come the machinist, who was not permitted to remove the blower pipes, and take away the exhaust pipe.

10. That under the piecework system of handling the front end repair job one mechanic and one helper working together would complete the whole job, but helpers were not permitted to use tools or perform any work classified as mechanics' work under the national agreement.

11. That such methods of handling work brought about controversies between different classes of mechanics and between shop committees and resulted in chaotic shop conditions; that workmen who from previous experience knew that higher wages and better working conditions would result from piecework engaged in a constant agitation for the return of the piecework system, although at the time more than 90 per cent of the workmen employed in the locomotive department of the Beech Grove shops were members of the shop crafts, the rules of which prohibited piecework.

12. That the dissatisfaction of the workmen by reason of the lower wages received under the day-wage system and the agitation for the return of piecework

culminated on January 17, 1922, in a petition by the machinists' union through its authorized representatives, for permission to take a vote of the machinists in the locomotive and car departments at Beach Grove to determine the sentiment of the men for or against piecework and that, the vote having been taken by the union through its shops committee, 165 workmen voted in favor of piecework and 140 voted for the day-wage system; that the officials of the machinists' union in Indianapolis, Ind., being informed of the results of the vote as aforesaid, refused to permit the Beech Grove shops to return to piecework.

13. That the controversy with respect to piecework in the Beech Grove shops continued unabated, the advocates of piecework contending that a majority of workmen in the shop should determine what system should prevail and that this majority should not be subjected to the wishes or desires of a minority in the shops or of members of the union who were not employed in the Beech Grove shops.

14. That on February 17, 1922, the Cleveland, Cincinnati, Chicago & St. Louis Railway Co. notified employees of the locomotive department that on and after February 21, 1922, the shops would be closed indefinitely; that the Beech Grove shops were closed on February 21, 1922, and that the federated committee of the shop crafts unions, after a meeting with the superintendent of shops, issued and posted the following notice:

"These shops will close February 21 and will not open again until they can be operated on a more efficient basis. The federated committee representing the craft employees has declined to agree to work piecework, and unless 100 employees or a majority of each craft or class ask to work piecework, the shop will remain closed until an individual corporation can be found who will lease or rent the shop and operate same. The shops will work under the same rules as they are now working under. To the old piecework schedules will be added an average of 10 per cent. The company also agrees to pay for each piecework hour worked the average bonus received by the crafts and their helpers in September, 1917."

15. That after the publication of the notice as aforesaid, workmen in large numbers made vigorous efforts to induce the Federated Shop Crafts to permit piecework in the Beech Grove shops but that the Federated Shop Crafts refused to give consideration to the subject of the controversy, whereupon a group of workmen who favored piecework addressed and mailed a communication to each employee of the locomotive department to his home address, excepting only employees of the blacksmith shop who had already voted almost unanimously in favor of piecework, which communication was as follows:

INDIANAPOLIS, IND., *February 25, 1922.*

DEAR SIR: Beech Grove shop is closed indefinitely. You have been advised it will not be opened until it can be done on a more efficient basis. If the employees do not indicate a desire to return on a piecework basis, the shop will be turned over to an outside concern. If this is done we will lose our seniority, free transportation, and other privileges we now enjoy.

The company has promised an average increase of 10 per cent on the old piecework schedule plus the average hourly bonus as of December, 1917.

This demands quick action. If you desire to return to your former position on the piecework basis will you kindly sign the form below and return by first mail to F. E. McCarthy, 138 North Oriental Street?

Yours truly,

F. E. MCCARTHY,	JOHN TAYLOR,
ROBERT BRUCE,	DAN MCCARTHY,
EDW. YOTT,	W. H. BROOKS,
W. H. RETTERER,	F. W. LUGGER,
W. E. HORN,	R. F. ZINKAN,
M. C. CAMPBELL,	C. J. WARK,
C. L. SITES,	E. J. TRIGG,
M. D. SULLIVAN,	NOBY WOODS,
L. PROSCH,	WM. JOB,
J. T. DRYER,	MARION ARMSTRONG,
H. E. SCHELLERT,	J. N. GRAY,
GEO. BARKHAM,	GEORGE CAVE,
JOHN BEST,	JIM SEACH,
EDW. SPETH,	CHARLES BERGER,
J. HAMRICK,	C. W. LONGSHORE,
R. ADAMS,	W. JOHANTGEN,

Committee.

16. That the communication as aforesaid was mailed to approximately 900 workmen, 700 of whom replied and stated that they desired to resume their former positions at Beech Grove on a piecework basis, said replies being delivered to the superintendent of the Beech Grove shops; that thereafter a meeting was held, attended by all the members of the committee as aforesaid, a committee representing the local shop union: L. V. Hart, business agent of the local union; E. M. Costin, general manager of the railroad company; A. W. Martin, superintendent of the locomotive department, and others; that a full discussion of the question involved was had and a vigorous effort made both by the railroad company and the committee representing the workmen to evolve a plan for reopening the shops on a piecework basis without the intervention of a private contractor, which had been suggested as a possible solution of the problem; that it was decided to call a meeting of all machinists and to make an effort to negotiate through the union an agreement with the railroad for piecework operation, thus avoiding the leasing of the shops to a private contractor; that such meeting was held as aforesaid on March 6, 1922, in machinists' hall at Indianapolis, Ind., and a resolution adopted without a dissenting vote to the effect that the business agent of the union should attempt to negotiate an agreement with the railroad for the operation of the shops on a piecework basis; that the business agent of the union failed to follow such instructions and the workmen were informed that the resolution adopted at the meeting was not binding; that the wishes and desires of practically all of the workmen in the locomotive department having been ignored, the workmen were confronted with a choice between continued affiliation with the union, the obeyance of its laws and regulations, and an abandonment of the idea of future employment in the shops; that a large number of the 700 men who had voted for piecework were trained only in the operations of the particular shop and in a character of work which could be obtained at no other place.

17. That thereafter, the railroad company having failed to negotiate a piecework agreement with the union as aforesaid, a contract was let by the railroad company to the railway service and supply corporation on March 15, 1922, whereby such corporation took over the operation of the locomotive department of the Beech Grove shops and that many of the workmen returned to their work in the locomotive department and resumed their former positions on a piecework basis, the workmen returning to their positions, however, as individuals, there being at that time no organization among them.

18. That prior to July 1, 1922, the United States Railroad Labor Board had issued an order decreasing the wages of shopmen throughout the country, whereupon a general shopmen's strike was called and the shopmen left their work in the various shops of the country on July 1, 1922, and that the shopmen having left their employment in violation of the orders of the United States Labor Board, the said board on July 3, 1922, adopted the following resolution:

"Whereas on July 3, 1922, the following resolution was passed by the United States Labor Board:

"'Whereas the six organizations comprising the Federated Shop Crafts have notified the Railroad Labor Board that a very large majority of the employees which they represent have left the service of the carriers, that the number of said organizations are no longer employees of the railways, under the jurisdiction of the Railroad Labor Board or subject to the application of the transportation act; and

"'Whereas, in the future submission of disputes involving rules, wages, and grievances of said classes of employees of the carriers, it will be desirable, if not a practical necessity, for the employees of each class on each carrier to form some sort of association or organization to function in the representation of said employees before the Railroad Labor Board in order that the effectiveness of the transportation act may be maintained: Now, therefore, be it

"'*Resolved*, That it be communicated to the carriers and the employees remaining in the service and the new employees succeeding those who have left the service to take steps as soon as practicable to perfect on each carrier such organization as may be deemed necessary for the purposes above mentioned; and be it further

"'*Resolved*, That on any carrier, where either of the above-named organizations, by reason of its membership severing their connection with the carriers, ceases to represent its class of employees, procedure similar to that above suggested in the case of the shop crafts is recommended; and be it further

"'*Resolved*, That the employees remaining in the service and the new employees entering same be accorded the application and benefit of the outstanding wage and rule decisions of the Railroad Labor Board until they are amended or modi-

fied by agreement with said employees, arrived at in conformity with the transportation act, or by decision of this board.'"

19. That in direct pursuance to and in accordance with the request of the Labor Board to the effect that it would be "desirable, if not a practical necessity," for shop employees to "form some sort of association or organization * * *" inquiry was made by certain workmen, to wit, George A. Barkham and F. E. McCarthy, of A. W. Martin, shop superintendent of the Railway Service & Supply Corporation, whether such corporation would consider the formation of an organization among the employees of the locomotive department, whereupon the two workmen above named were referred to the general manager of such corporation and whereupon the two above-named workmen were advised that if a substantial number of the employees of the locomotive department would agree to a plan of employment as discussed the matter would be considered by the Railway Service & Supply Corporation; that thereafter a communication was addressed to all of the employees of the locomotive department suggesting the formation of an association or alliance of such employees, separate and apart from any other organization, which would permit the workmen to deal as a group with the Railway Service & Supply Corporation and generally would have the effect of protecting the workmen in their employment and to aid them in all matters relating to wages, hours, and working conditions, as well as permit group action in obtaining insurance, aids to self-education, the acquisition of homes, and bring about economies in purchasing the necessities of life.

20. That thereafter a petition for the organization of such an association was circulated in the locomotive department and was signed by a very large number of workmen; that such petition as aforesaid having been presented to the general manager of the Railway Service and Supply Corporation, after a full consideration said plan was approved, whereupon the organization of the workmen was completed, and in order to protect our interests and facilitate the transaction of business, a corporation under the laws of the State of Indiana was organized. A chart of the organization of the association or corporation is attached hereto, made a part hereof, and marked "Exhibit C."

21. That thereafter an agreement between the Associated Employees of the Beech Grove Shops and the Railway Service and Supply Corporation was entered into on August 30, 1922, said agreement providing in detail for wages, hours, and working conditions, and that since said date as aforesaid the members of Associated Employees of Beech Grove Shops have worked under said agreement and modifications thereof, and that the result has been a constantly increasing individual production and a constantly increasing wage to the members of said organization; that what is more important, the workmen employed in the locomotive department of the Beech Grove shops are satisfied with the terms and conditions of their employment, and that the plan and purposes of this organization have proved entirely practicable and successful.

22. That the concrete and practical results of the organization and operation of the Associated Employees of the Beech Grove Shops are as follows:

1. To substantially increase the wages, the efficiency, and the production of the individual workman, and improve his social and economic standing.

2. To increase the efficiency and production of the shop as a whole, and to greatly improve working conditions.

3. To render prompter, more efficient, and less expensive service to the railroad, enabling it to perform its public transportation service more efficiently, and thereby aid and improve the facilities of commerce and trade.

4. To establish a flexible plan for determining wages in a manner which automatically adjusts the earnings of workmen with the increase and decrease of output rather than length of time required, thereby encouraging and rewarding individual initiative and industry.

5. To protect the workman in all matters affecting wages and working conditions, and to make possible direct and personal relationship between employer and employees while preserving the advantages of group action.

6. To encourage and provide, without cost, educational facilities for all workmen and thereby aid the individual to advance and improve his position in life, to provide insurance, and other benefits for members.

7. To train and develop experts quickly and to recognize individual skill and ability whenever proved without retarding individual development by a long period of arbitrary and enforced apprenticeship.

8. To insure by its legal incorporation, responsibility of the associated employees to all persons to whom obligations are due.

9. To improve in great measure, individually and collectively, the well being in every way of our 800 members and their families as compared with the condition which formerly prevailed under the day wage system, and which will be reestablished if the pending bill is enacted into law.

23. That the membership of the Associated Employees of Beech Grove, of Indianapolis, Ind., having been informed within 24 hours prior to the date hereof of the serious consideration of Senate bill 2646, by a subcommittee of the United States Senate Committee on Interstate Commerce, and believing that the effect of the enactment of the said bill into law would be to subject this organization and the membership thereof to complete domination by the so-called national organizations of employees, the purposes, ideals, and aims of which are foreign to the purposes, ideals, and aims of the membership of the Associated Employees of Beech Grove Shops, respectfully protest against the enactment of the said bill into law, for the following reasons, to wit:

(*a*) The pending bill, if enacted into law, would compel the entire membership of associated employees to submit to representation on our behalf in the adjustment of wages, hours, and working conditions by so-called national organizations of employees with which we have little in common and whose aims and objects differ widely from the aims and objects of the membership of our organization; and so far as the membership of the Associated Employees of Beech Grove Shops is concerned, the effect of enactment of Senate bill 2646 would be that our membership would be absolutely deprived of any voice in the adjustment of wages, hours, and working conditions, due to the obvious necessity of yielding to the wishes of organizations as a whole; that is, representation by national crafts in the country as a whole rather than as now, to enjoy representation wherein the shop is a unit.

(*b*) The effect of the enactment of the pending bill would be to compel the membership of Associated Employees of Beech Grove Shops to abandon present employment altogether or to affiliate with the various national organizations from which nearly two years ago we voluntarily withdrew in order to preserve our individual interests and to protect our individual well-being.

(*c*) The effect of the enatment of the pending bill on Associated Employees of Beech Grove Shops would be the utter destruction of our organization, whose membership for a period of two years has enjoyed the most amicable and friendly relations with our employers.

(*d*) The effect of the enactment of the pending bill would be to make enforceable by law and by severe penalties a decision heretofore rendered by the United States Railroad Labor Board, and not now enforceable as such, requiring the Big Four Railroad to reinstate a small minority of men formerly employed at the Beech Grove shops who left their employment to engage in an unauthorized strike, in the places of a majority of workmen still in the service, and to restore wages, hours, and working conditions prevailing prior to February 1, 1922, in lieu of wages, hours, and working conditions which now prevail and which are far more profitable and satisfactory to the employees of Beech Grove shops.

(*e*) The effect of the enactment of the pending bill would be the abandonment of piecework which now generally prevails in the Beech Grove shops and under which system the membership of Associated Employees have enjoyed the highest wages ever paid in the history of the shop, and the restoration of the day rate of wage, involving a substantial loss in earnings by the membership of this organization.

(*f*) The effect of the enactment of the pending bill would be that the membership of Associated Employees of Beech Grove Shops would lose certain advantages, rights, and privileges heretofore established as the result of the joint undertakings by ourselves and our employers, to wit: (1) Favorable conditions under which insurance against death, sickness, and disability, outside of the course of our employment, is obtained; (2) special opportunities for educational training; (3) counsel and guidance in the making of safe investments; (4) cooperative purchasing of merchandise and supplies; (5) home building aids; and (6) cafeteria service at low cost in the shops.

(*g*) The enactment of the pending bill so far as the operation of the Beech Grove shops is concerned, and that is the only interest of the membership of this organization in the pending bill, would result, first, in restoring domination of the shops by the various national organizations of employees; and second, in the revival of an archaic system of production that has become as unpopular and distasteful to the men as it must be intolerable to the employer, a system that is shot through with inefficiency and indifference.

(*h*) The enactment of the pending bill would bring about such a centralization of power and authority within the membership of approximately 20 established national craft unions, that in no case could the representatives of such crafts espouse the cause of more than a bare majority of the membership of the

railroad crafts merely, and in such representation there would be a total want of any responsibility to or interest in behalf of organizations of employees not included within the railroad crafts specifically from which adjustment boards will be chosen under the provisions of the bill, and such conditions not only will tend to undermine the whole structure upon which collective bargaining is is founded and toward the disruption of such organizations as Associated Employees of Beech Grove shops specifically and organizations of workmen in the transportation industry generally, but perhaps the complete paralysis of the transportation industry itself, the underlying reason being that representation within the trade-union movement has been intimately responsible to the rank and file of the membership of particular crafts.

Wherefore Associated Employees of Beech Grove Shops most respectfully protest against the enactment of Senate bill 2646 into law, and protest against a favorable report on said bill by the subcommittee of the Senate Committee on Interstate Commerce having said bill under consideration. And Associated Employees of Beech Grove Shops respectfully ask to be heard orally in the consideration of the pending bill, and ask that a time be fixed at which representatives of the organization will be heard.

Respectfully submitted.

ASSOCIATED EMPLOYEES OF BEECH GROVE SHOPS,
GEO. A. BARKHAM, *President.*
J. E. MITCHELL, *Secretary.*

EXHIBIT A

We, the undersigned, in order to form ourselves into a corporation, in accordance with an act entitled "An act for the incorporation of societies not for pecuniary profit, defining their powers and providing for the election of directors, the dissolution of such corporations, distribution of their property, and the changing of their articles of association, and declaring an emergency," approved March 6, 1889, have hereby prepared, signed, and acknowledged in duplicate before the notary public who has affixed his hand and official seal hereinafter the articles of incorporation for the proposed corporation, as follows:

(*a*) The name of the proposed corporation shall be "Associated Employees of Beech Grove Shops."

(*b*) Said association and corporation shall be located at Beech Grove, Marion County, Ind.

(*c*) This corporation is organized for the purpose of establishing a closer relation between employer and men entitled to membership in this corporation as hereinafter provided and to cooperate with each other and by said corporation to deal directly with the employer of said Beech Grove shops on behalf of the members hereof and to do all lawful things reasonably calculated, in the long run, to promote the economic welfare of the members herein by means of the ability of said members to cooperate with each other by means of said corporation, and more particularly in addition to the relationship of the members with the employers of said shops, the ability of said corporation to contract group insurance on behalf of said members, provide more economical means for the purchase of homes by its members than they individually could do, and to otherwise reduce the cost of living of its members by virtue of the collective buying power of the corporation to be exercised on behalf of its members as to commodities desired by said members as rapidly as such service can be safely developed by said corporation, and to aid, advise, and promote such organization or organizations, or plan as will provide a safe means for the members to care for their personal savings, and to arrange with the employer of said Beech Grove shops for and to otherwise aid the proper vocational training of the children, relatives, or friends of the members as rapidly and to the extent deemed wise by the majority of the members hereto, and to do all other things to in the long run promote the welfare of said members as shall from time to time be deemed sound management of the affairs of said corporation by the majority of the members hereof and as may be brought about through the ability of the corporation to act on behalf of the members collectively the same as if said members were simply cooperating with each other to a common purpose without incorporation, provided, however, all of said activities shall be conducted at cost to the members and not for pecuniary profit nor for the purpose of accumulating a profit or surplus for distribution to members, but only for accumulation of such fund as necessary to carry out the purpose hereof.

(*d*) All persons employed in said Beech Grove shops and persons employed by the Cleveland, Cincinnati, Chicago & St. Louis Railway Co. in the vicinity of said shops, shall be eligible to membership herein upon payment of dues and satisfying the conditions of memberships as prescribed by the by-laws.

(*e*) There shall be two kinds of members, active and associate, subject to such qualification and dues of each class as provided in the by-laws, but each member shall have one vote to be cast in person or by proxy on all questions: *Provided, however,* The associate members shall not be entitled to vote on questions affecting the relation of the employer of the members to the members. When a member shall cease to pay his dues or cease to be a person employed as provided in paragraph (*d*) herein and accept work elsewhere, or whose whereabouts shall be unknown, he shall without notice cease to be a member hereof.

(*f*) The dues of said corporation shall be in such amounts as shall be determined upon from time to time by the board of directors as necessary to provide sufficient capital for the purpose of the corporation and confirmed by a majority vote of the members in meeting assembled, but not to exceed $18 annually, unless consented to by a four-fifths vote of the members in good standing, and said dues shall be payable in such installments as shall be provided by the by-laws.

(*g*) There shall be a board of directors consisting of three members of said corporation to be elected as provided in the by-laws and the business of the corporation shall be directed by the board in meeting assembled.

(*h*) The power of the board of directors shall be supreme in the ordinary management of the business and prudential affairs of the corporation, but there shall be a governing board or sectional committee of such members, and elected in such manner, as the by-laws may direct, which committee shall be supreme in matters involving the general policy of the corporation as to matters arising between stockholders' meetings and such portion of the by-laws as control and provide for said sectional committee shall be changed only by two-thirds vote of the members in meeting duly called: *Provided, however,* The corporation may borrow money only on consent of a majority of the members at meeting duly called and declared by the authorizing resolution to be used solely for the purpose of the corporation herein.

(*i*) The names and addresses of the directors who are to manage the affairs of the corporation for the first year are: R. E. Jones, 2021 Roosevelt Avenue, Indianapolis; Edw. Decker, 28 North Dearborn Street, Indianapolis; George A. Barkham, Beech Grove, Ind.

(*j*) The time of the first annual meeting of the members shall be first Monday of August, 1923, and shall be held in the office of the corporation at Beech Grove, Ind.

(*k*) The by-laws of the corporation shall be adopted or amended by a majority vote of the stockholders except as to qualifications of membership and dues, which shall be adopted or amended only by two-thirds vote of the members and except as restricted in paragraphs (*f*) and (*h*).

(*l*) The by-laws, subject always to the provisions herein, shall provide for the election of directors, officers, sectional committee, and all qualifications for membership, dues, and other provisions necessary for the proper control and conduct of the corporate affairs, and when approved as provided in paragraph (*k*) shall be a binding obligation on all members of the corporation and to each other.

(*m*) The length of the life of the corporation shall be 50 years, unless sooner dissolved by majority vote of the stockholders.

(*n*) The corporate seal shall be a circular disk, containing around the margin thereof the name of this corporation and across its face the word "Seal."

(*o*) The articles of association shall be changed only in the following manner: (1) Paragraphs (*a*), (*j*), (*l*), and (*n*) may be changed by a majority vote of the members in good standing; (2) paragraphs (*b*), (*c*), (*d*), (*e*), and (*g*) may be changed only by two-thirds vote of the members in good standing; and (3) paragraphs (*f*), (*h*), (*k*), and (*m*) may be changed only by unanimous vote of the members in good standing. Paragraphs (*i*) and (*p*), being but temporary, are not referred to in this provision and this provision itself may be changed only by unanimous vote of the members in good standing.

(*p*) The names and residences of the incorporators are: R. E. Jones, 2021 Roosevelt Avenue, Indianapolis; E. H. Decker, 28 North Dearborn Street, Indianapolis; G. A. Barkham, Beech Grove, Ind.

Signed and sealed by us, the incorporators, this the 8th day of August, 1922.

R. E. JONES. [L. S.]
E. H. DECKER. [L. S.]
G. A. BARKHAM. [L. S.]

STATE OF INDIANA.
Marion County, ss:

Before me, the undersigned, a notary public in and for said county and state aforesaid personally came R. E. Jones, E. H. Decker, and G. A. Barkham, the parties signing their names to the above articles of incorporation, and acknowledged the same to be articles of incorporation prepared and signed by themselves and to be their voluntary act and deed.

In witness whereof, I hereunto set my hand and official seal this the 8th day of August, 1922.

[SEAL.] SANDY F. TAYLOR, *Notary Public.*

My commission expires December 27, 1922.

EXHIBIT B

BY-LAWS OF ASSOCIATED EMPLOYEES OF BEECH GROVE SHOPS

ARTICLE 1.—MEMBERSHIP

1. *Annual meeting.*—A meeting of the members shall be held at Beech Grove, Ind., and shall be held at 4 o'clock on the first Monday in August, for the purpose of holding the several elections by the different shop groups and classes of members, hereinafter provided for, and for the purpose of electing sectional committees and for the transaction of any other business authorized or required to be transacted by the members, pursuant to statute or the articles of incorporation and these by-laws. In case such first monday in August shall be a legal holiday the meeting shall be held on the next succeeding day which is not a legal holiday.

Notice of the annual meeting and the place thereof in Beech Grove, Ind., shall be mailed at least 10 days prior to the meeting to each member at his address last furnished by him to the company, provided he shall have furnished such address.

2. *Special meetings.*—Special meetings of the members shall be held at Beech Grove, Ind. Either the president or the board of directors, pursuant to resolutions passed by the majority thereof in meeting assembled, or the governing board pursuant to resolutions passed by majority of said board in meeting assembled, may at any time call a special meeting of the members, and a special meeting shal be called in no other manner, and no meeting except the annual meeting, shall be valid unless so called, and notice of such special meeting and of the object or objects thereof and the place in Beech Grove, Ind., shall be mailed to each member at least 10 days prior to the meeting and at the address last furnished by said members to the company, provided the members shall have furnished such address. The notices of such call shall be signed by the president if he is calling the meeting, or by the secretary of the respective board if the meeting is called by either of said boards.

3. *Quorum.*—A majority of the members in good standing shall constitute a quorum at any meeting for all purposes, except as to such purposes and questions as the articles of association or by-laws require a greater number of votes for corporate action, in which case a quorum shall be the number of members in good standing (whether there in person or by proxy) as shall be required to take the action in question, but in any case a majority of the members actually present in person or by proxy at any meeting may at the end of one hour from the time for which the meeting was called adjourn the meeting from time to time, without further notice, and at any such adjourned meeting at which a quoroum may attend as above defined all the business may be transacted which might have been transacted at the meeting as originally called. Where the special meeting simply requires the approval by the members of some action recommended by the directors or governing board, which action the governing board or directors desire to refer to the members, any special meeting called for the consideration thereof may be held without actually having an assembled meeting.

In such case the will of the members shall be ascertained by mailing a questionnaire to each member, which questionnaire, in addition to such other information as the board of directors or governing board may desire to give or ascertain, shall state the questions to be voted upon and provide for answers "yes" and "no," and the questionnaire shall also authorize the member of the governing board of the section of which the respective member is a member to vote "yes" or "no," as herein provided, on behalf of said member the same as if he himself were personally present, and shall be signed by said member and returned to such address as the governing board shall direct. By a date set out on said questionnaire as the date on which the board will meet and hold a meeting to determine the desire of the members and to act on behalf of the members pursuant to the desire expressed as herein provided, and which date shall be at least 10 days after the date of the mailing of the last of said questionnaires, on such date the governing board shall meet and each member of the board shall, on behalf of the members whose questionnaires he holds, as above provided, cast the vote of said member as requested in said questionnaire, and as to all members whose questionnaires have not been returned by said date the member of the governing board may cast the vote of said members, pursuant to the permanent proxy herein provided for, and the result of said ballot at said meeting shall constitute valid members action the same as if the members themselves had personally been present at said meeting and cast said ballots, and all action so taken shall be valid corporate action.

Either the annual or special meeting or meetings from time to time may likewise be had without assembling the entire membership in one place, if the governing board and board of directors deem it to the best interest of the company to so hold said meeting, and if in issuing the call for the meeting questionnaires are mailed to each member and it be stated that instead of an assembled meeting the members will return their signed questionnaires to the governing board, as above provided, and that the governing board will hold said meeting and cast the votes of the members and act on behalf of the members at the place and time at which said meeting is called the same as provided in preceding paragraph for procuring the approval of members of action taken by the board, and such meeting may take such action as could a general meeting duly called at which all members were assembled at one place and such meeting may adjourn from time to time and the adjournments thereof be as valid as the original meeting.

4. *Voting.*—Each member in good standing, active or associate, shall have one vote, which may be cast in person or by proxy, under such regulations as may be prescribed in the by-laws and as provided and subject to the restrictions in paragraph (*e*) of the articles of association.

5. *Proxy.*—Any writing stating kind of membership held (active or associate) and reasonably identifying the meeting or meetings for which it is intended to be used and designating the party who is to act as proxy of said member, dated and signed by said member and witnessed by at least one witness, who shall sign his name as a witness, shall be a sufficient and valid proxy for the purpose of such meeting or meetings.

Each member in exchange for his certificate of membership shall deposit with the representative of his respective section on the governing board his proxy duly signed, as above provided, and authorizing whoever shall from time to time be the member of the governing board representing his section to cast his vote at any and all meetings of the members at which said member himself shall not be actually present in person or by proxy for the particular meeting in question. Said proxy shall be in full force and effect so long as said individual is a member of this corporation. The fact that said proxy is so held shall in no wise dispense with the notice required to be given each member as to meetings.

As above provided, in case the meeting is by questionnaire with the governing board acting on behalf of the members in holding said meeting, the member of the governing board holding said permanent proxy or proxies may, if the individual member has not returned his questionnaire or special proxy in time for such meeting, as above required, procure the questionnaire or ballot provided for said meeting and cast the vote of such member or members pursuant to the authority of said permanent proxy as if said member were personally present.

6. *Membership qualifications.*—Any employee as defined in paragraph (*d*) of the articles of incorporation, who has been in the service of the employers named in said paragraph (*d*) for 30 days and who after five days after entering such service files application for membership and who is an American citizen of lawful age and good character may become eligible for election to membership.

7. *Election to membership.*—Such employee shall apply to the sectional committee of which he is a member according to the plan hereafter set out designating sectional committees and said sectional committee receiving such application shall duly investigate the citizenship and character of said applicant. Upon satisfaction of a majority of the members of said committee that said applicant is of such character as called for by the above set out qualifications, said approval being signified by vote of said committee, said applicant shall be entitled to membership at the expiration of said 30 days, above provided for,

and at the end of said 30 days said applicant shall be issued a certificate of membership, upon receipt of his proxy as above provided, and upon receipt of $1 which shall accompany each application, together with an additional 25 cents of which last shall be applied on his first month's dues. If rejected said application fee shall be returned to the applicant. The portion of the application fee not applied to dues shall be placed in the general fund for current expenses.

8. *Kinds of membership.*—When a member shall cease to pay his dues or to be employed, as provided in said articles and as herein provided not in conflict with said articles, he shall without more cease to be a member. If a membership is so terminated and if within 30 days after such termination the member so losing his membership shall notify the insurance company of such fact and assume full payment of such insurance as if insured as an individual pursuant to agreements made with said insurance company, said member may retain and carry on said insurance as individual insurance so long as the corporation is able to make any arrangement of that sort with the insurance company in which insurance is carried: *Provided, however,* This shall not be construed to oblige this company to assume any obligation or burden except that of negotiating, if possible, without expense to itself the above set out privilege for members who shall cease to be members and desire to continue their insurance as personal insurance: *Provided further,* When a member shall become so disqualified the sectional committee of his section shall immediately notify said member that he has ceased to be a member by depositing in the mail a notice thereof addressed to the last address of said member left with the corporation, and said 30 days shall not begin to run until said notice is so deposited.

If the company shall have provided any means for the purchase of homes for its members such as loans or home-savings organization the termination of membership shall not immediately terminate the member's privilege under said membership as to said home-loan privileges, but shall be continued for a reasonable length of time to enable the member to procure loans elsewhere and the board of directors is hereby authorized to render such reasonable assistance in shifting said loan as not inconsistent with the welfare of the corporation and if they deem it advisable, to continue said loan for such time as may appear justified.

10. *Dues.*—The dues of this association shall be 25 cents per month, to be paid in advance on or before the twelfth day of the month to the sectional committee to which each member belongs. In default of the payment thereof by said time each respective member shall become delinquent and without further action forfeit all rights and privileges of this membership, subject to the qualifications provided in the preceding paragraph. If the member pays his year's dues in advance it is hereby directed that he shall be rebated 50 cents on the entire year's dues and the amount retained by the company shall be considered a full payment thereof: *Provided, however,* This shall in no wise be construed to negative the power given the board of directors by the articles of association to alter the dues required when necessary to provide sufficient capital for the purposes of the corporation when confirmed by a majority vote of the members in meeting called, as herein provided, whenever said alteration is not to exceed $18 annually, as provided in paragraph (f) of the articles of association, unless the said excess dues shall be consented to by four-fifths vote of the members in good standing, as provided in said article.

ARTICLE II.—MANAGING BOARDS

1. Pursuant to article (h) of the articles of incorporation hereby created, the board of directors shall be supreme in the ordinary management of the business and prudential affairs of the corporation, and a governing board, which shall be supreme in matters involving the general policy of the corporation as concerns the relationship of the corporation to its members and of the employees to its members as to matters of such nature arising between stockholders' meetings, said board to be selected and to carry on their business in the manner hereinafter set out.

2. *Sectional committees.*—Each of the principal shops on which the respective members hereof are employed shall constitute a section. Each section shall elect a sectional committee representative of all of the employees in that section at the annual meeting as authorized in article 1, paragraph 1, of these by-laws. There shall be as many committeemen for each section as 25 is contained into total average number of employees in said section for the past preceding 12 months prior to the annual election of such committee.

3. *Present committees.*—The present sectional committees shall be as follows: Section 1, boiler shop; section 2, tank shop; section 3, cab shop; section 4, erecting shop; section 5, machine shop; section 6, tin and pipe shop; section 7, forge shop; section 8, electrical shop; section 9, miscellaneous and millwright shop.

New sections may be added by favoring vote of majority of the members upon recommendation of the governing board.

4. *Term of office.*—The members elected to said sectional committees shall serve for one year, except that the term of the committeeman chosen for the governing board, as hereinafter provided, shall when so chosen, automatically extend itself for one year beyond the current year for which said committeeman is elected.

5. *Governing Board.*—Each of the sectional committees upon being duly elected shall choose one of its members as a representative of that section on the governing board, who shall also be chairman of the sectional committee.

6. *Number.*—There shall be as many members on the governing board as there are sectional committees.

7. *Organization.*—The governing board being duly chosen shall at the next succeeding regular annual meeting select one member as permanent chairman, one as permanent vice chairman, one as secretary-treasurer of said board, and a permanent manager to care for the routine and office work of said board, who shall be at such place as may be designated by the board and at such times for the purposes of receiving dues and transacting such other business as the board may direct, and said board is hereby authorized to pay said permanent manager a reasonable salary for the work done by him, subject to the approval of the board of directors. The office of the secretary-treasurer and general manager may be combined in one person in the discretion of the board of governors. Members of the governing board when chosen, as above provided, shall serve for two years or until their successor is elected, or until such member is removed for cause duly filed of record and sworn to by the sectional committee of which he is a member.

8. *Advisory board.*—The governing board being duly chosen and having perfected its organization, as hereinafter provided, shall proceed to choose and invite to accept an advisory board consisting of a lawyer, a banker, and a man of general business experience.

The governing board shall hold its annual meeting at 7 o'clock p. m. on the first Monday in August of each year. Should the first Monday in August fall upon a legal holiday the meeting shall take place the next Monday which is not a legal holiday.

9. *Power.*—Except as restricted in article 2, paragraph 1, herein and in the articles of association and eleswhere in the by-laws or by direct recommendation or prohibition of the number, the governing board in meeting assembled shall have power to do all things that members hereof would have power to do in meeting assembled, except as to the restriction in paragraph 8 of the articles of incorporation concerning the borrowing of money and except as to dissolution, change as to qualification of members, or the articles of association. It is provided further, however, that the governing board shall make monthly report to the members of all action or refusal to act taken by it, giving the reason therefor, and matters so reported in said monthly report and the action stated as taken therein shall be as binding on the members as if they had themselves personally so done in meeting duly called and assembled.

10. *Legislation.*—All laws, rules, and regulations of this body shall be drafted by the governing board, which when unanimously approved by said board and by a majority of the directors in joint meeting assembled shall be submitted to the sectional committees, who shall approve them separately, a two-thirds majority being necessary for approval in each section and approval of two-thirds of the sections each voting as a unit being necessary for adoption.

11. *Collection of dues and other funds.*—It shall be the duty of the sectional committees to see to the collection of all funds in their respective sections, which committees shall as rapidly as collected deliver said funds and account for the same to the manager of the governing board, pursuant to his direction. The manager of the governing board shall deliver over to the secretary-treasurer of the company all funds in his hands when and as demanded by requisition duly signed by the secretary-treasurer of the corporation. The board of directors of the corporation may require such bonds as they deem necessary to protect the interest of the company and conditioned on the faithful performance of the officer of his duties and the proper accounting to the board of all funds in his hands belonging to the corporation for the treasurer, for the board of governors,

the manager of the board of governors, the treasurer of the corporation, and the president of the corporation and the chairman of the board of governors, when in their discretion such board is necessary: *Provided, however,* It shall be the duty of the board of directors to require a bond of the manager aforesaid and of the treasurer of the corporation in such amount and with the above set out conditions as will amply protect the corporation.

12. The disbursements and investments of all funds as provided for in the articles of association, by-laws, and other regulations of this organization shall be, by order of the board of directors, made in meeting assembled, except as to the ordinary current expenses of the organization, which shall be paid by the secretary-treasurer of the company and checked upon and approved by each succeeding meeting of the board of directors. Excepting as to the ordinary disbursements, the aforesaid disbursements and investments, which are directed to be ordered by the board of directors in meeting assembled must also be approved by two-thirds vote of the governing board sitting in conjunction with the advisory committee. If a two-thirds vote of the advisory board sitting in meeting assembled is not procured, the meeting may, if a majority of the governing board and advisory board acting jointly deem it advisable, be referred to the sectional committees, and, if approved in the same manner as above provided in paragraph 10, Article II, for the approval of the regulations of said governing board by said sectional committees, said disbursements and investments shall be authorized as if said board had approved the same.

13. Vacancies on the sectional committees shall be filled by election for the unexpired term of such vacancy at meeting of said sectional committee, upon approval of a majority of the members of the respective sectional committees.

14. Vacancies on the governing board shall be filled in the same manner as the original member of the governing board is chosen, excepting that the term of office shall be the unexpired term of the member whose place is so filled.

15. For the period of July 28, 1922, to July 28, 1923, for the purpose of perfecting the organization, the present organization committee shall constitute the governing board.

16. *Quorum.*—The majority of the governing board shall constitute a quorum thereof for the transaction of all business, except where the articles of association or by-laws require a majority vote for the particular question before the board, in which case the number required shall be necessary to constitute a quorum for the taking of that action.

17. *Directors—Number.*—The articles of incorporation govern the number of directors, and as the articles now stand the board shall consist of three members.

18. *Election.*—The board of directors shall be elected at the regular annual meeting of the governing board by a majority of vote of said board.

The first board elected shall be elected respectively for the following terms: The president for a period of three years, the secretary-treasurer for a period of two years, and vice president for a period of one year, and when the successors of said original board are elected the provision as to the term of office, hereinafter set out, shall then go in force, thus affecting the desire of the members of the board of directors shall be added each year, in order to insure greater continuity of policy and action by the board. If at any election of a member and officer of the board of directors more than two names are proposed for the same office and each on the count of the votes of the governing board no one of the three receives a majority of votes of the members present the second highest shall again be voted upon and the person then receiving a majority of the votes of those present at said meeting shall when duly qualified and sworn be the director and officer elected.

19. *Term of office.*—Each director when elected shall serve for a period of three years, and when elected as required by statute a certificate under the seal of the corporation signed by its secretary, giving the name or names and terms of office of the director or directors elected shall be recorded in the office of the recorder where the certificate of organization is recorded: *Provided, however,* That at any regular annual meeting of the board of governors any director may be removed and a successor elected for the unexpired portion of said director's term in the following manner:

Any member of the governing board or member of the corporation deeming it to the best interest of the corporation to have said director removed, shall file 20 days before said regular annual meeting an affidavit signed by himself requesting the removal of said director and stating the reasons thereof said party deems it to the best interest of the corporation that said director be removed. A copy of said request and said affidavit shall, within five days thereafter, be served on said director, or if said director is not personally available and by reasonable

search mailed to the last address furnished him by the company within said five days' period for the purpose of permitting said director to procure such counteraffidavits as he desires and to enable him personally to appear before said board and show wherein he deems the charge unfounded, and if at said meeting, after said affidavits and hearing is had, three-fourths of the members of the governing board present and qualified shall vote in favor of the removal of said director, said director shall be forthwith declared removed, and his successor, as above provided, elected the same as vacancies are filled.

20. *Vacancy.*—In case of any vacancy in the board of directors through death, resignation, disqualification, or other cause, the remaining directors and the governing board shall sit in joint meeting and by affirmation vote of the majority sitting in said meeting, of which a majority of the remaining qualified members of said boards shall constitute a quorum, may elect a successor to hold office for the unexpired portion of the term of the director whose place shall be vacant and until his successor shall have been duly elected and qualified.

21. *Meeting.*—The board of directors may hold its meetings and have one office in Beech Grove, Ind., and keep the books of the company in said office.

22. The board of directors may hold one or more regular meetings a month provided the time of the regular meetings shall be made a matter of record by resolution passed by the board in meeting assembled and spread on the record of its minutes and after once so made a matter of record the time for said regular meetings can not be changed until a resolution has been duly presented in writing at one regular meeting, voted upon and passed by a second regular meeting. The board shall hold at least one regular meeting a month.

23. Special meetings may be called by the president upon notice being mailed each member at least 10 days in advance; said notice stating the time and place and purpose of the meeting.

24. Each director shall furnish to the secretary an address to which notices required herein may be sent.

25. A majority of the directors shall constitute a quorum for the transaction of business.

26. A majority of those present at the time and place of any stated or special meeting, although less than a quorum, may adjourn the meeting from time to time without notice and at any adjourned meeting having a quorum may transact all business which could have been transacted at the original meeting.

27. Board of directors shall have power to employ a general manager for the company, for the transaction of such business as the board of directors are authorized to carry on on behalf of said company. The general manager, for the purposes of the board of directors, may be the same person as the general manager of the governing board, should the board of directors and said governing board so agree. The board may fix such reasonable compensation as it sees fit from time to time for said manager and such assistants as may be required by him in carrying on the business of the company.

28. *Compensation.*—The compensation for the directors may be fixed by the governing board at any annual meeting of said governing board for the next following year; said compensation shall be the same for each director: *Provided, however,* This shall not be construed to limit the ability of the directors to serve in some other remunerative capacity in the corporation.

ARTICLE III.—MEMBERSHIP, BOOKS AND CERTIFICATES

1. *Certificates of membership.*—Certificates of membership shall be in the following form:

"Associated Employees of Beech Grove Shops," incorporated under the laws of the State of Indiana. Membership restricted to persons employed in Beech Grove shops and of the Cleveland, Cincinnati, Chicago, & St. Louis Railway Co. in the vicinity of said shops.

No. ——

Associate active membership: This certifies that ——— ——— has been duly elected, qualified, and accepted and is an active associate member of Associated Employees of Beech Grove Shops; that upon acceptance of this membership the aforesaid member accepts all the provisons in the articles of association and by-laws and agrees to abide by the same, together with the rules and orders promulgated by the board of directors and governing board, pursuant to said articles and by-laws.

This membership is not transferrable and may be withdrawn or lost when the member may become disqualified as provided in the by-laws.

Witness the seal of the company and the signature of its duly authorized officers this the ——— day of ———, 19—.

——— ———, *President.*
[SEAL.] ——— ———, *Secretary-Treasurer.*

"I, the undersigned, ——— ———, hereby accept the above membership with all its rights and obligations and certify that I have read the articles of association and by-laws and agree to be bound thereby."

This certificate is invalid unless certified by the chairman of the governing board of said company.

Certified to this the ——— day of ——— by ——— ———, chairman of the governing board.

No certificate shall be valid unless signed by the president and secretary-treasurer and attested by the seal of the corporation and certified to by the chairman of the governing board.

All certificates shall be consecutively numbered and nontransferrable.

2. *Lost certificate.*—In case of lost or destroyed certificate a new certificate may be procured upon receipt of an affidavit to the effect that said certificate has been lost or destroyed, stating how, if known, together with a bond in such amount and form as shall be satisfactory to the board of directors and the governing board, and upon receipt of a fee of $1 to defray the expenses of issuing said new certificate.

3. Each certificate shall have attached a stub, which shall in turn be fastened to a membership book, and when a certificate is issued it shall be torn from stub; said stub to remain in said book, and if at any time said membership is surrendered the canceled membership certificate shall be attached to said stub.

4. The membership books shall be kept in the office of the company at Beech Grove, Ind., and for the purpose of determining who are the members of the company in issuing calls for meetings, herein provided for, the membership books shall be deemed closed five days prior to the last day on which notices to members are directed to be mailed, as provided herein.

5. As provided in the statute, under which this company is organized, its affairs are to be carried on at actual costs, and no surplus shall be piled up except such surplus as a reasonable working capital and to enable the corporation to carry on business in which it is engaged as authorized by the articles of association in the most economical manner.

ARTICLE V.—OFFICERS.

1. As hereinbefore provided, the directors shall be elected for the purpose of holding a specified office in the company. For the present directors may be elected for the office of president, vice president, and secretary treasurer, the latter of which shall be held by the same member. The officers so elected shall hold said office for the term which they are elected as directors to said office.

2. *Duty of officers.*—The president shall preside at all meetings of the stockholders and at the board of directors. He shall be the chief executive officer of the company and shall have general charge of the business of the company, subject to the direction of the board.

The treasurer shall have custody of all the funds and securities of the company which may have come into his hands and shall keep full and accurate accounts of moneys received and paid by him on account of the company.

The secretary shall keep the minutes of all meetings of the stockholders and the board of directors: he shall attend to the giving and serving of all notices, except as herein otherwise provided; he shall have the custody of the seal of the company.

The president, vice president, treasurer, and secretary shall in general perform the duties usually incident to such offices, except as herein enlarged and qualified, together with such other duties as may be designated by the board from time to time.

3. *Execution of instruments on behalf of the Company.*—All promissory notes and other instruments disbursing the Company's money or obliging it to do anything or refrain from doing anything and all bills of exchange, drafts, or other commercial instruments, excepting checks, issued drawn or made by the company, shall be signed by the president and attested by the secretary treasurer of the corporation. All deeds or mortgages shall be signed and acknowledged by the president and secretary-treasurer and attested by the secretary-treasurer of the governing board. All checks may be signed by the secretary-treasurer of the company: ***Provided, however,*** Any contract concerning the wage of working

condition of the members shall be signed by the president, certified to be the chairman of the board, and attested by the secretary-treasurer of the governing board.

ARTICLE VI.—AMENDMENTS

The articles of association provide the manner of amending the by-laws.

STATEMENT OF EDWARD HOSKINS, PRESIDENT AMERICAN FEDERATION OF RAILROAD WORKERS, CHICAGO, ILL.

Mr. HOSKINS. Mr. Chairman and members of the subcommittee on Interstate and Foreign Commerce, in behalf of the members of the American Federation of Railroad Workers, representing the various classes of employees engaged in the railway service, who have been organized since 1901 and who have, for the last 23 years, been negotiating with the various railway managements in the matter of agreements concerning wages and working conditions, do hereby enter our emphatic protest against the proposed enactment of Senate bill 2646 known as the railway labor act in conjunction with the unanimous opposition expressed to the bill by the various independent organizations representing practically every class and occupation on the railroads, in conference assembled, in Chicago, Ill., April 4, 1924.

We wish first of all, to call attention to your honorable committee that very little time or opportunity has been afforded the respective representatives of the organizations represented in this hearing to prepare for or present their side in opposition to the bill notwithstanding the many months the bill has been in the course of preparation. The feverish attempts now being made to rush this measure through are quite in line with the extensive preparation made by the proponents of the bill and the apparent precaution taken from it becoming generally known, notwithstanding the vital concern the almost 2,000,000 railroad men have in the outcome of this proposed legislation, the details of which were lacking until very recently.

It may be well, at the very outset, to review briefly some of the more important developments that have taken place on the railroads since the war in order that a more complete and full understanding may be had of the underlying issues involved. The anomalous position of the organizations sponsoring the bill has perhaps never been better exemplified by their many futile attempts to perpetuate themselves. Whether the members of the committee realize it or not, the fact remains that these organizations, responsible for this bill, no longer represent the enlightened opinion of the railroad men of this country. That they have failed to function, that they no longer are able to protect the economic interest of those they purport to represent, has been amply attested to in the recent strike of the shopmen and such other spectacular uprisings such as happened in 1920 and the almost wholesale loss of membership in these organizations and the loss of not only the war-time gains but most of the gains secured years before. Just how these organizations have slumped since 1920 may be seen in a compilation of their membership computed on the per capita tax paid to the parent body, the American Federation of Labor:

Blacksmiths' International: Loss 45,000 members since 1921; about 90 per cent.

Boilermakers: Loss, 73,600 since 1920; about 75 per cent.
Brotherhood of Railway Clerks: Loss, 90,000; about 50 per cent.
Machinists: Loss, 233,500; about 70 per cent.
Maintenance of Way Employees: Loss, 16,500; about 35 per cent.
Railway Carmen: Loss, 40,000; about 20 per cent since 1921.
Switchmen's Union: Loss, 3,300; about 25 per cent.
Railroad Signalmen: Loss, 3,400; about 25 per cent.

The unfairness of only a portion of the railroad workers to secure legislation in their sole interest and bind workers to their organizations that have meant nothing to them but their undoing and defeat and the serious inconvenience of the public, regardless of the interest and welfare of all, is manifestly unjust and improper.

Various attempts have been made to establish so-called national boards of adjustment which have, for their purpose not the expeditious or just settlement of grievances as is ordinarily supposed by the perpetuation of these organizations that can not otherwise maintain themselves, by denying representation to those who refuse to worship at their shrine. To force men against their will into organizations whose admitted failure can not be disputed and compel them to submit under the law, as would happen under the terms of this bill, would simply make for a situation over which there would be no control. We aver that this bill has not the sanction of the membership in or out of the organizations named but represents, primarily, the will of the officialdom who have not lost any opportunity to foist it on the unsuspecting railroad men.

During the period of Federal control of the railroads the so-called national agreements were negotiated, when it became apparent that the roads would be returned to the private managements. These iron-clad agreements that represented nothing more than a compilation of the various orders of the Railroad Administration, which applied to all alike, denied the right of any other organizations to take up grievances of their own members other than those signatory to these so-called contracts, which happened to be none other than those who have and are now trying to secure national boards of adjustment. Likewise during the ill-fated shopmen's strike, adjustment boards were injected when it was not even an issue. The men struck against wage reductions and the abrogation of working conditions of long standing, but this was miraculously changed by the officers themselves in a few weeks' time, and proffers were made to the railroads to settle on the basis of establishing such adjustment boards.

The transportation act provides that adjustment boards may be established by mutual consent, but none have been agreed upon voluntarily anywhere. It is now sought to secure these boards by compulsion.

Perhaps the most brazen attempt made, with the exception of the present one, to fix the status of these organizations by law was made in the House of Representatives while the Esch-Cummins bill was pending, when the notorious Anderson amendment was offered that specifically named these same organizations that alone would be represented on the three boards to be provided but which fortunately were not agreed upon by the conferees of the House and Senate, when the bill was in their hands.

So far as the Railroad Labor Board is concerned, it affords at least an opportunity for all to be heard, even the unorganized. There

probably would not have been any objections to the transportation act had the Anderson amendment been passed. Title III of the transportation act was the result of extended deliberation and investigation that unquestionably represented the best method for the adjustment of disputes between carriers and their employees, under the circumstances. Careful consideration has been given to all parties concerned. Under its provisions, there has been no monopoly. Ample opportunity for all employees to select representatives of their choice is fully assured. While, so far, no representatives of any of the independent organizations have been appointed to the boards, they are, nevertheless, given equal opportunity to nominate members for the labor group.

The proposed substitute for sections Nos. 300 to 316, inclusive, as set forth in Senate bill 2646, section 3, paragraphs B, C, D, E, and F, are identical with the Anderson amendment in so far as representatives on the different adjustment boards are to be appointed from the nominations made and offered by the employees and subordinate officials from each of the nationally organized crafts described therein. The only difference between the Anderson amendment and the bill now proposed is that the names of the organizations are omitted and, instead, there has been inserted "the nationally organized crafts," which is mere camouflage to facilitate the passage of the bill. The adoption of this bill will deny rights now uniformly enjoyed by all. In effect, it will deny organization of employees which is now generally conceded except as they may become members of the organizations referred to in this proposed measure. The right to organize unquestionably carries with it the right to organize as the men see fit and to be represented by men of their own choosing, which is denied in this bill. To deny the men the right of how they shall organize is equivalent to denying men the right of how they shall vote; to give citizens the franchise and then dictate how they shall vote, or to concede the right of religious freedom by specifying the church that may be worshipped in, would be a farce and a travesty. Under the terms of this proposed legislation, representation would be a joke. The employees would have no representation except that forced upon them by the organizations specified. Agreements held on many railroads of the country by the various independent organizations would be null and void for all practical purposes.

We appreciate the open and frank manner in which the highest law-making body of the United States is urged to enact legislation which will abridge the inherent rights of all railroad employees who are not members of the organizations enumerated in the bill to seek appointment on adjustment boards or any other representative bodies authorized by the laws of the Nation. Appointment of boards from specific organizations means that, so long as a mere fraction of the employees retain their membership even though it is reduced to one-half of 1 per cent, members of such boards must be chosen from these organizations, or until the law is changed. Aside from these facts, there is nothing particularly new in the proposed plan. Grievances are to be handled in accordance with a well-established custom almost as old as organization itself.

The proposed board for mediation and conciliation will simply bring about a repetition of former attempts to settle, in conference. The cause for existing dispute will still remain a vital factor.

The last act in the program, so far as additional machinery is concerned, is to permit interested parties to submit grievances concerning wages, working conditions, rules, and agreements, to a board of arbitration, which board is to consist of either three or six members, as may be decided by the parties affected, an equal number to be appointed by the carriers and employees, the remaining one or two members to be decided upon by the arbitrators chosen by the contending or directly interested parties except when such arbitrators fail to agree. In such cases, the Board of Mediation and Conciliation shall name the third division of the board. This means that the labor group and a management group, together with a third group, which may be termed a public group, are authorized to render a decision. It is very clear that disputes referred to this board by agreement as provided in the bill will be acted upon by a Labor Board under an assumed name, the only difference being that such grievances will travel a longer route.

The most important questions are those affecting rates of pay and working conditions. A proposed increase in wages or a proposed reduction, as submitted by one or more classes of employees or representatives of the carriers, are almost constantly under consideration either in conference or by the Labor Board. Neither party to such disputes can, as a rule, be induced to yield until all of the avenues for adjustment have been exhausted. It therefore naturally follows that such disputes may eventually reach the board of arbitration provided both parties involved agree to such further action, as proposed in the substitute. Such grievances afford the only real danger to interrupt transportation.

We are all agreed that transportation should not be discontinued even temporarily, thus the directly interested parties, the carriers, the employees, and the public, can not afford to indorse proposed legislation, giving power and authority to specific organizations representing only a portion of the employees to have the exclusive right and privilege to name members of adjustment boards or otherwise indorse strictly class legislation. Such action will increase rather than decrease dividing lines between the different crafts and classes and prevent proper and adequate coordination of all factors necessary to uninterrupted transportation. Peace can not be maintained without justifiable consideration for the lawful rights and privileges of all concerned. Aside from advantages sought by the so-called nationally organized crafts enumerated in the proposed bill, we fail to find a solution for problems which have occurred in the past and may reappear in the future. Past experience proves beyond doubt that a satisfactory adjustment of wages and working rules is the most effective remedy. We are all convinced that such questions do not readily yield to judgment rendered out of consideration of bipartisan boards.

The next step is to submit to arbitration, as proposed in the bill, and offer as a substitute for methods now in operation.

The construction of the proposed board for arbitration, as compared to the Labor Board, is clearly set forth in section No. 7 (B) (4), and reads:

(4) Any arbitrator except such as are chosen by the Board of Mediation and Conciliation shall not be incompetent to act as an arbitrator because of his interest in the controversy to be arbitrated, or because of his connection with or partiality to either of the parties to the arbitration.

The first two divisions of the proposed board are not apt to agree upon a third party who is known to be favorable to either one or the other of the first two divisions. It is difficult to find a wholly disinterested party and altogether impossible to reach a decision without first becoming interested.

It is conceded, in the paragraph quoted, that arbitrators chosen by the carriers and those chosen by the employees, parties to the dispute, may be competent to act regardless of interest in the controversy or because of his connection with or partiality to either of the parties to the arbitration, thus the major portion of the responsibility for rendering an impartial decision rests upon the arbitrator or arbitrators chosen by the interested parties. The public group of the Labor Board is placed in the same position. They hold the balance of power because of the manner in which the first two divisions of the board are constituted.

It is therefore the unanimous opinion of the representatives of the organizations excluded from the bill and who are denied the right to nominate members of the adjustment boards and in consideration of the lack of unity existing at the present time, we contend that the present provisions of the transportation act, providing ways and means of disposing of disputes, should not be amended or repealed until, at least, the chaotic conditions that have engulfed the workers are adjusted by themselves and a higher degree of coordination and effectiveness of the various classes involved are brought about.

STATEMENT OF J. L. ELDRIDGE, PRESIDENT OF THE RAILROAD YARDMASTERS OF AMERICA

Mr. ELDRIDGE. Mr. Chairman, I am grand president of the Railroad Yardmasters of America, a national organization representing yardmasters. This organization holds the contracts involving yardmasters on the majority of the eastern carriers, Northern Pacific in the Northwest, Louisville & Nashville in the Southeast, Texas & Pacific, Fort Worth, and Sioux City in the Southeast.

We are in full accord with the purposes of this bill (S. 2646), but believe that our interests can not be properly conserved and our existing contract protected unless yardmasters as a class are designated in Paragraph B, as for example, the train dispatchers. We would therefore respectfully request this addition to said paragraph.

STATEMENT OF E. H. MALICK, MILTON, PA., REPRESENTING PENNSYLVANIA RAILROAD CO. MISCELLANEOUS EMPLOYEES

Mr. MALICK. Mr. Chairman, I am appearing before your honorable committee as the spokesman for 17,000 miscellaneous employees of the Pennsylvania Railroad system comprising office, station, warehouse, storehouse, and elevator forces and engine and train crew callers and others similarly employed, excluding clerical and supervisory forces, functioning under the plan of employee representation.

My purpose is to place before your honorable committee the protest of the various classes of employees above enumerated against the proposed Senate bill 2646 and state our reasons therefor.

First. It is my opinion that this proposed legislation is unnecessary and will not accomplish or insure efficient and uninterrupted operation of the railroads and its enactment will result in discord among other organizations not provided for in this bill.

Second. My opinion is the Howell bill is undemocratic and that it is an abridgement of the constitutional rights and privileges of a certain class of citizens of the United States, in that it deprives them of their inherent right to say who shall represent them.

Third. It arbitrarily sets up class legislation in that it establishes the closed shop and unjustly makes it mandatory on the part of railroad employees to become affiliated with one or other of the 20 national organizations; otherwise they will have no representation on proposed boards of adjustment. There is no alternative provided.

Fourth. I believe the presence of partisan labor representatives upon an administrative or judicial board has a tendency to destroy its usefulness as a tribunal and allow organized labor to become so dominant that employees who are functioning under the employee representation plan will be barred from consideration.

We also contend that this bill, because it is so partial in its provisions as to specifically express a preference in the selection of a member of the proposed labor group from among the various classes of employees, is inconsistent with the fundamental principles of democracy and we question its constitutionality.

Fifth. The employee representation plan specifically provides that there shall be no discrimination against any employee because of race, sex, affiliation, or membership in any labor or other organization, and we contend in this connection that the Howell bill, 2646, does indirectly infer race discrimination.

Reading from the constitution and by-laws, protective laws of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, one of the 20 national organizations named, and which organization represents relatively the same classes of employees as those whom we represent and one of the 20 named national organizations mentioned by Mr. Robertson before the Subcommittee on Interstate Commerce, Tuesday, March 18, 1924, to quote from said constitution:

ARTICLE 2—MEMBERSHIP

SEC. 1. All white persons, male or female, of good moral character, who have had at least three months' actual experience as clerks or office employees; freight handlers; ticket sellers; baggagemen; or other station employees; train and engine crew dispatchers; storehouse or storeroom attendants; and/or, express messengers in the service of railroad, steamship, express or other transportation companies and who at the time of making application are in the employ of such a company, except employees at ocean and Great Lake ports handling freight between marine warehouse and deep-water vessels, deep-water vessels and marine warehouses, railroad cars and deep-water vessels and, or, deep-water vessels and railroad cars, shall be eligible to membership. *Provided*, That persons otherwise eligible to membership but not in the employ of such a company at the time of making application, but who shall have had at least two years' actual experience in such service shall be eligible.

Further quoting from the supporting opinion of decision No. 2181, docket 773, dated at Chicago, Ill., March 5, 1924, of the United States Railroad Labor Board, page 12, paragraph 2:

The colored employees concerned in this case are in a somewhat unfortunate position. To begin with, they are not permitted to become members of the white labor organizations known as the standard organizations. The dissenting opinion in this case, however, argues that these standard organizations must be accorded the right to negotiate all rules and rates of pay for these colored outsiders, because they are in a minority. This simply means that the colored employees not being admitted to membership in the standard organizations could en?tfron /tany voice in the Waking of their working conditions and rates of pay, a right guaranteed to them by the transportation act.

The supporting opinion further states, to give legal sanction to this discrimination, certain representatives of the labor organizations have prepared and have introduced in the Congress of the United States a bill which provides that the adjustment boards which it sets up shall contain certain representation from the standard organizations alone. Inasmuch as the standard organizations exclude from their membership all colored men, the necessary result of the proposed measure is to legalize an ironclad act of exclusion against colored railway employees.

Any kind of class discrimination in the interests of selfish ambition is unfortunate and in the end injurious to society as a whole.

It is not my intention to burden this committee with a lengthy statement showing the workings of the employees' representation plan, but submit a pamphlet entitled "An employee's view of how the plan of employee representation on the Pennsylvania Railroad actually works," by Mr. H. R. Gore, general chairman Brotherhood of Locomotive Firemen and Enginemen.

(The article referred to is here printed in full, as follows:)

AN EMPLOYEE'S VIEW OF HOW THE PLAN OF EMPLOYEE REPRESENTATION ON THE PENNSYLVANIA RAILROAD ACTUALLY WORKS

[By H. E. Core, General Chairman, Brotherhood of Locomotive Firemen and Enginemen]

(Mr. Core is recognized as the spokesman of the Engine and Train Service Employees on the Pennsylvania Railroad. He describes the amicable settlement of industrial disputes by the methods in effect on this railroad as "an amazing record." The address from which these extracts are reprinted was recently delivered before the New York Railroad Club.)

Industry started in this as well as other countries in small units. The employer unit in many cases was a single individual who not only was employer but supervisor, and in many cases a fellow employee; the employee unit was perhaps a single individual.

The employer, although a strong individualist, maintained close contact with his employee. That inevitably minimized his own individualistic obsessions, and permitted him to secure a first-hand conception of the rights, needs, and desires of each of his own employees.

EFFECT OF INDUSTRIAL EXPANSION

As industry expanded, a very material evolution in the status of the two groups occurred. The employer group expanded to such a point that to-day it is largely an absentee group, having no contact whatever with the employees. The employee group has expanded so that it no longer has direct personal contact with the employer.

There is now a third group in the industrial situation that did not exist even even a generation ago; that is the group of supervising employees. As an illustration, on the Pennsylvania to-day, the employer group constitutes some 230,000 individuals. The employee group constitutes some 220,000 individuals. The supervising employee group constitutes some 15,000 individuals.

This enlargement of the several groups in industry inevitably brought about a loss of contact between employer and employee, which has reached a stage where all too large a proportion of each group are strangers to each other.

Now, ignorance is the great cause of suspicion. It is not the known that is terrible, it is always the unknown. Did you ever hear of ghosts appearing in the daytime? They always appear at night, because daylight discloses their nonexistence. That is knowledge. It is not our friends and close acquaintances of whom we are suspicious; it is strangers. That is the basis of much of the trouble in industry to-day.

The employer is a stranger to his supervising employee; he is a stranger to his supervised employee; the supervising employee is a stranger to many of the supervised employees.

NEED FOR CLOSER CONTACT

Only by better acquaintance can a recognition of our mutual responsibilities be reestablished.

That does not in any way entail either social or political companionship. But certainly not the least important companionship to-day is industrial. The closer the industrial companionship or relationship between these three great groups, the more efficient the organization.

The better acquainted each group is with the other—with the rights, needs, desires, and limitations of the several individuals—the more considerate will each group be of the rights and needs of the others.

One of the great defects of industry to-day is not that it is inhuman, but that it is unhuman. One of the great needs is to humanize industry, to deal with individuals, not as cogs in a vast machine, but as human beings whose reserve, initiative and individuality are infinitely more valuable than the routine of mere a cog.

FUNDAMENTALS OF PENNSYLVANIA PLAN

One of the present-day attempts to solve this somewhat perplexing and infinitely complex problem is now taking place on the Pennsylvania.

It is not an Atterbury plan. It is not an employee-representation plan. It is a Pennsylvania plan; it is a cooperative plan.

It started nearly 10 years ago, in the offer of one of the general chairmen in the transportation organizations to the then general manager of the lines east, Mr. Long, of a proposition to meet monthly and try to settle our differences. Such differences as could not be settled across the table were to be referred to a board of arbitration to be selected, one by the management and one by the employee, they to select a third, who were to sit one day each month and decide such questions as we had not been able to settle. That was rejected.

In 1918 there was more or less agitation on this question. The duties and responsibilities of the general manager had become too great for any single individual. We had reached a time when it was often as long as 100 days before we could get a meeting with the general manager, maybe another 100 days before we could get his answer on grievances. You know that delayed justice is often denied justice.

That led the four chairmen of the transportation organizations to present a proposal in 1918 for monthly meetings to settle our differences across the board. In neither of these cases was the plan at all as comprehensive as the one adopted. I am not at all sure that it was not a fortunate thing that neither wa s accepted, because in both cases they were incomplete and compromise propositions.

SITTING DOWN AS FRIENDS

Mr. Atterbury, I judge, coming back from the World War, had a somewhat fresher view than those immediately on the ground. I recall at one of our early meetings a striking statement of his, which I feel is one of the underlying thoughts in our plan.

He said, "If two friends sit down together and have all the facts before them on any case, they ought not to have any difficulty in arriving at a common judgment."

The other great basis of our plan is that if two parties make an agreement, neither has the sole right of deciding what it means.

This plan is a recognition that the two parties who make these agreements have an equal right to decide what they intended by them.

Our plan also aims at the elimination of delay.

HOW THE PLAN OPERATES

The new plan comprehends, first, a meeting between the local chairman and the superintendent on each division once each month on a day set in advance so that both sides know it, a date which can not be changed except by mutual consent. Either the superintendent or the employees' representative may present matters for discussion at that meeting, the only limitation being that they must be presented to the other party at least five days before the meeting.

If the superintendent and the local chairman agree, that settles the matter. If they disagree, the case is reduced to a joint submission, which consists first, of the subject matter; second, what both sides mutually agree are relevant facts with reference to the case; third, the position of the local chairman, and fourth, the position of the superintendent.

REGULAR MEETINGS SPEED UP SETTLEMENTS

Our plan also calls for a meeting each month between the general chairmen and the general superintendents, between the general chairmen and the general manager, and also our court of review meeting.

These meetings are consecutive, spaced far enough apart so that a disagreement between the local chairman and the superintendent can be referred to the general superintendent, allowing the necessary five days, and in case of a disagreement there can be referred to the general manager the necessary five days in advance, and in case of disagreement with the general manager can be referred to the reviewing committee five days in advance.

This makes a cycle which is complete in not to exceed 60 days, and ordinarily in the 30-day period.

The general chairman, on receipt of such a joint submission from his local chairman, considers whether or not the local chairman is justified in the position he has taken. If he decides that the local chairman is not justified, he declines to handle the case. If he decides that the local chairman is justified in his position, he refers the matter to the general superintendent and it is discussed at the regular monthly meeting with the general superintendent.

In case the general superintendent and general chairman disagree, that disagreement is reduced to a joint submission in the same manner as the original joint submission. It, in turn, is referred to the general manager; and in case, at the monthly meeting with the general manager, they disagree, such disagreement is again reduced to a joint submission and referred to the reviewing committee.

In case no decision is reached at the first monthly meeting, the case is carried over to the second monthly meeting; and in case no decision is reached then, the committee shall decide what further steps shall be taken to dispose of the case.

In the only disputed case it was referred to a board of arbitration, which very promptly made the decision.

There is a good bit of human psychology back of our reviewing committee.

First, it is based on the thought that the two parties to the agreement have equal right to interpretation.

JOINT COURT OF REVIEW

This really is a quasi-judicial body which has the power of interpretation, because it decides in case of dispute what our various working rules mean as applied to the several concrete cases which are presented to it. The members of the reviewing committee are 16 in number, 8 from each side.

This plan was formulated at a meeting between the general chairmen of the four transportation organizations and the several general managers of the system, at the initiative of Vice President Atterbury, in December, 1920, becoming effective January 1, 1921.

The question immediately arose as to the best form of making decisions of the reviewing committee. Ought we to make all decisions unanimous? Immediately there was the objection that any man could block a settlement on any question. That manifestly was unjust to both sides. Should a majority vote decide? The objection to that was that if a majority voted and the division was at all along partisan lines, it would place the onus of any decision on a single individual of the minority group. If he were an employee, particularly, there would be insinuations of improper coercion.

We finally decided on a two-thirds vote, and the longer we sit the more we feel that our judgment was sound. If there is a division along partisan lines, the majority group must convince at least three members of the other group before a decision can be reached. It is manifestly impossible for anybody to coerce almost half of such a unit.

We have handled almost 800 cases and have made a decision on every case except one. The reason why we did not reach a decision on that was to save the feelings of one of the older members of the employee group.

"AN AMAZING RECORD"

When you stop to think that one of the most vexatious things in the contact between employer and employee on the railroads is the question of discipline—that is an amazing record. We handled dozens of discipline cases, and yet we have not had one that we have not settled.

Where formerly an important matter was in dispute for anywhere from a year and a half to two years, it is now settled in from 30 to 60 days. The individual or group of individuals aggrieved on any particular question is not aggrieved long enough to be at all irritated before a decision is reached.

I do not present this as the only plan. There are an infinite number of plans. But every day it is bringing a clearer recognition to both the employees and the supervising employees, who are representing the management, of their mutual or cooperative responsibility, because we are handling questions that vitally involve many of the functions of the management.

In dicipline cases we are digging deep into the solidarity of the organization as a transportation machine. The handling of the employee questions in this intimate manner brings closely to the representatives of the management many of the desires of the employees in a way that they could not get in any other manner.

A PREDICTION

One of the most vexatious questions that the employees have to handle is that of seniority, the rights to runs. A few years ago the disputes between ourselves and the management over these questions were much more irritating even than our discipline questions.

About seven years ago the management concluded it would get rid of that vexatious matter, and in so many words they said to the transportation organizations, "Gentlemen, this is your trouble; settle it"; and turned over bodily all questions of seniority and rights to runs.

I do not know of a shrewder move any railroad company has ever made. It immediately got rid of a very vexatious question and the employees have had it ever since.

We recognize our responsibility as a component part of the Pennsylvania management, of the Pennsylvania personnel, in settling our own employee troubles.

I am going to make a prediction that on the Pennsylvania, and I believe on many more railroads within the next two decades, the same thing will largely occur on matters of discipline. Now, that is quite a radical statement.

But the recognition of responsibility on the part of employees individually, collectively, and representatively has advanced so in the last 10 years, as well as recognition on the part of the management that employees, when given responsibilities that they should assume, conscientiously assume them, that I believe matters of discipline within the next few decades will be left almost entirely to the employees.

Infractions of rules are matters just as vital to each and every employee as to the management, because no employee can infringe the rules without injuriously affecting the safety and comfort or well-being of his fellow employees. It is not coming in a day or two; it is a matter of education. But I believe it will come.

Mr. MALICK. To quote from this pamphlet:

Mr. Gore is recognized as the spokesman of the engine and train service employees on the Pennsylvania Railroad.

He describes the amicable settlement of industrial disputes by the method in effect on this railroad, "an amazing record." The address from which these extracts are reprinted was recently delivered before the New York Railroad Club.

I wish to state in this connection our plans for settling all controversial matters, grievances, etc., are identically as described in this article.

And again, Mr. Chairman, I wish to bring to the attention of your honorable committee, with emphasis, an excerpt from an address delivered by Mr. W. N. Doak, vice president of the Brotherhood of

Railroad Trainmen, addressing the Chamber of Commerce of the United States at New York City, May 10, 1923. To quote:

The most cordial relations exist and the most wholesome respect and good will is entertained one for the other. In most instances the operating officers of the various lines are promoted employees who have come up through the ranks. There is to-day, in so far as we are concerned, no trouble of any kind with the management, neither is there any friction; so you may be assured that industrial peace is everywhere apparent, in so far as the railroads and the transportation employees are concerned.

Our plan has been in effect and functioning satisfactorily since July, 1921. There has been no grievance or controversy that we have been unable to settle amicably among ourselves; and it might be well to point out at this time that we have handled all kinds of controversial matters, including wage increases, decreases, and adjustments.

In this connection the results of our ability to successfully settle all cases of grievances are shown very conclusively in the following summary:

Pennsylvania Railroad system statement of disposition of grievances or controversial questions, showing the number taken up and how disposed of for miscellaneous forces from August, 1921, to and including February, 1924

Nature of grievance	Taken up	Settled	Withdrawn
Seniority, etc.	233	177	56
Discipline and appeals	53	33	20
Time allowances	421	304	117
Miscellaneous	364	249	115
Total	1,071	763	308

Our plan has been unjustly and unwarrantedly attacked before your honorable committee. Our integrity has been questioned. We would point out to you, Mr. Chairman, the employees we represent on the Pennsylvania Railroad system are receiving honest and reliable representation through machinery that is smooth working and capable of producing results by representatives elected on an absolutely secret ballot.

At this time I would emphasize very forcibly that the so-called Big Four organizations on the Pennsylvania Railroad system who handle controversial matters in a manner identical to the plan under which we function, have found it necessary in only two instances, Mr. Chairman, to appeal decisions to the United States Railroad Labor Board since the establishment of that body in 1920.

I quote under caption "Wages, p. 5" from decision No. 1621 of the United States Railroad Labor Board, docket 2655, effective March 1, 1921, affecting classes of employees we represent:

The employees contended at the hearing that certain inequalities exist on certain railroads in the rates of pay of employees covered by sections 7 and 8 as a result of the application of General Order No. 27 of the United States Railroad Administration and subsequent orders and decisions based thereon, and they have requested the Railroad Labor Board to adjust these inequalities. Sufficient data has not been presented to enable the board to decide the question of inequalities in the rates of pay of these employees. However, this decision does not preclude the further consideration of this matter by the employees and the carriers, and in that event of their being unable to reach an agreement on the question, it may be submitted to the board in accordance with the provisions of the transportation act of 1920.

We have followed out these suggestions and have recently completed an adjustment of rates; in other words, where there were 117 various rates in effect we reduced this number to 17, this adjustment affecting over 1,600 employees. I might add that to the best of my knowledge this is the first instance of this kind where such an undertaking has been accomplished by employee representatives or any other representatives on any railroad in the United States.

At the hearing before your honorable committee on the 4th instant one of the proponents of this bill charged that under the so-called company unions the representatives are a lot of puppets who jump when the management pulls the string.

Mr. Chairman, I wish to refute that statement as being absolutely false. There is no coercion or interference otherwise on the part of the management in any respect. The gentleman making the charge has either been misinformed or else his assertion is based entirely upon assumption.

Our election as representatives has been slanderously attacked by the counsel of the proponents of this bill, and I desire to take exception to that portion of this statement in which he asserts the candidates and the election of the employee representatives are dictated by the management of the Pennsylvania Railroad and not the employees.

He has either been misinformed or was just assuming when he made that stetement. Our election is by secret ballot and the management does not directly or indirectly have any voice in the selection of candidates or their election.

In conclusion, Mr. Chairman, the fundamental principles of our plan are based on the Constitution of the Federal Government, a plan of the employees, for the employees, and by the employees, with equal rights to all and special privilege to none. It is the objective and it is absolutely being accomplished in the development of this plan to transform a noncooperative element into a cooperative element on our railroad. A plan that has been adopted by no less than 80 additional industries of our Nation.

STATEMENT OF GENERAL COMMITTEE, ASSOCIATION OF CRAFT EMPLOYEES, CENTRAL REGION, PENNSYLVANIA RAILROAD SYSTEM

To provide for expeditious and prompt settlement, mediation, conciliation, and arbitration of disputes between carriers and their employees and subordinate officials, and for other purposes.

This bill proposes to represent the desires and to provide for the needs of the classes of employees that are outlined in said bill. This bill has made no provisions for such employees as come within the scope of the regulations of mechanics, helpers, and apprentices in the central region, Pennsylvania Railroad system. Excluding the other regions and the Altoona Works, the employees outlined on board No. 2, page 9, lines 3 to 10, numbering approximately 17,000, have been given no consideration in this proposed bill. If the provisions of this bill as covered on page 9, line 16, referring to national organized crafts are alone to be considered, it means that through the plan of our association, regardless of the numbers that we may have, they can not have a voice in determining who shall be appointed on this board.

The proponents of this bill in their desire to see labor organizations represented have unwisely neglected to take into consideration the welfare of all employees coming within the scope of these classifications. The suggestion of using only national organizations is apparent by making a contrast in considering what is possible to occur by the adoption of this proposed bill. For instance, if 10 of the craft employees on the central region belong to the national organizations

and the remainder of the 17,000 belong to the association of craft employees, 7 of these 10 men could be possibly nominated and probably appointed on this board No. 2, while the remainder of the 17,000 would be powerless to take any action. We believe the inconsistency of such a proposition would not be considered as in any degree reasonable or fair by any fair-minded individual.

The provision for insubordinate officials is also inconsistent with the constitution of the association of craft employees. We do not provide for such class of officials, as, "Section 1, Article II—membership":

"All mechanics, helpers, and apprentices, Pennsylvania system, central region, who are actively engaged in classes of work enumerated in the graded work classification of mechanics, helpers, and apprentices, effective August 30, 1921, who are not acting in a supervisory capacity, shall be entitled to membership in this association."

This constitution has been composed by the general committee and approved and adopted by two-thirds of the craft representatives. We call this to your attention because of the misunderstanding that prevails among those who neither desire to know or to properly investigate this fact.

We therefore believe that if this proposed bill is passed it will cause discord and strife among the classes, especially under board No. 2, who are not associated with national organizations, and we firmly believe the classes who are not associated with national organizations are in the majority.

The result of the association of craft employees has been direct dealing with the proper officials on the ground, prompt and satisfactory adjustment of disputes, and the privilege of taking up our disputes with officials higher up empowered with authority to give decisions.

THE ASSOCIATION OF CRAFT EMPLOYEES,
PENNSYLVANIA RAILROAD SYSTEM, CENTRAL REGION,
OFFICE OF THE REGIONAL GENERAL COMMITTEE,
ROOM NO. 213, FULTON BUILDING.

To all division chairmen of mechanics, helpers, and apprentices, shop-craft employees, central region, greetings:

Below please find copy of minutes of convention meeting held in Moose Temple, Friday, June 22, 1923.

MORNING SESSION

Meeting called to order at 10.15 a. m. eastern standard time, by General Chairman H. E. Custar.

Roll call by Secretary H. A. McGowan, and the following chairmen were absent: R. D. Armstrong, carman, eastern division; H. Smith, sheet-metal worker, Wheeling division; Winfield Pelling, electrician, Wheeling division; Tom Meyers, blacksmith, Akron division. Messrs. Armstrong, Smith, and Pelling reported later, due to the fact that their train was late. The following alternates were present: John Kalleness, representing William Forsythe, boiler maker, eastern division; Edward Davis, representing M. V. Laisure, blacksmith, Pandhandle division; R. Blackburn, representing J. L. Neil, sheet-metal worker, Marietta division; S. S. Shifflette, representing H. J. Shearer, machinist, Akron division; H. W. Brown, representing S. R. Smith, carman, Akron division.

General Chairman Custar stated that nominations were in order for temporary chairman of this meeting, which resulted in the following nominations:

Nominee	Occupation	Division	Nominated by—	Occupation	Division
C. H. Cotton	Electrician	Buffalo	W. J. Hilton	Electrician	Eastern.
F. P. Wagner	Sheet-metal worker	Monongahela	H. J. Corbis	Boiler maker	Conemaugh.

There being no further nominations, General Chairman Custar declared the nominations closed.

General Chairman Custar appointed Messrs. C. E. Harkins, boilermaker, C. & P. division, and J. L. Bowman, carman, Renovo division, as tellers, and William A. Emmett, blacksmith, eastern division, as clerk in charge of the election.

The result of the election was as follows:

C. H. Cotton	60
F. P. Wagner	17
Total votes cast	77
Eligible voters	77

General Chairman Custar declared C. H. Cotton, electrician, Buffalo division, elected temporary chairman of the convention.

Motion: J. C. Holly, boiler maker, Pittsburgh division, G. P. Ashley, machinist, C. and P. division, second: "That the meeting adjourn at this time for lunch." Motion carried.

Adjourned at 11 a. m., to meet again at 12.30 p. m., eastern standard time.

AFTERNOON SESSION

Meeting called to order at 12.30 p. m., eastern standard time, by temporary chairman, Mr. C. H. Cotton.

Roll call by secretary, Mr. H. A. McGowan, and the following chairman was absent: Mr. Tom Meyers, blacksmith, Akron division.

Temporary Chairman Cotton declared a recess to allow each craft, i. e., machinists, boiler makers, blacksmiths, sheet-metal workers, carmen, and electricians to elect a general craft chairman for the term of two years.

Temporary Chairman Cotton stated that all elections were reported unanimous, and the results were as follows:

Name	Occupation	Division	General chairman of—
H. A. McGowan	Machinist	Renovo	Machinists.
P. F. Schultz	Boiler maker	Panhandle	Boiler makers.
A. E. Richardson	Blacksmith	Conemaugh	Blacksmiths.
A. Bibbee	Sheet-metal worker	C. & P	Sheet-metal workers
J. B. Lenhart	Carman	Pittsburgh	Carmen.
L. M. Graham	Electrician	C. & P	Electricians.

Temporary Chairman Cotton then advised that nominations for general chairman of the regional general committee would be in order and nominations were as follows in order named:

Nominee	Occupation	Division	Nominated by—	Occupation	Division
H. A. McGowan	Machinist	Renovo	G. D. Neidlinger	Machinist	Buffalo.
H. E. Custar	Carman	C. & P	W. F. Luppke	Sheet-metal worker.	Do.
W. J. Hilton	Electrician	Eastern	R. D. Armstrong	Carman	Eastern.
G. L. Sherbendy	do	Akron	E. F. Markley	Boiler maker	Akron.
A. Bibbee	Sheet-metal worker.	C. & P	R. Blackburn	Sheet-metal worker.	Marietta.
F. P. Wagner	do	Monon	W. G. Shaffer	Machinist	Monon.
C. H. Cotton	Electrician	Buffalo	F. P. Wagner	Sheet-metal worker.	Do.

Motion, Mr. F. P. Wagner, sheet-metal worker, Monongahela Division; second, Mr. G. L. Sherbondy, electrician, Akron Division, "That the man receiving the majority of votes, not plurality, would be elected;" an amendment to this motion (which was accepted by Mr. Wagner and Sherbondy), that "the men receiving the lowest number of votes would be dropped from the running." Motion carried.

There being no further nominations, Temporary Chairman Cotton declared the nominations closed.

Temporary Chairman Cotton appointed Messrs. T. T. Custar, blacksmith, Pittsburgh Division, and C. C. Miller, electrician, Renovo Division, as tellers, and Mr. D. W. Bierer, electrician, Monongahela Division, as clerk in charge of the election.

The result of the election was as follows:

	Votes
H. A. McGowan	11
H. E. Custar	21
W. J. Hilton	24
G. L. Sherbondy	5
A. Bibbee	4
F. P. Wagner	7
C. H. Cotton	7
Total votes cast	79
Eligible voters present	79

After the preceding results were made known the following men, in order named, asked permission of Temporary Chairman Cotton to withdraw from the running (which permission was granted by Temporary Chairman Cotton), of their own free will; Messers. Bibbee, Sherbondy, Wagner, Cotton, and McGowan.

After the above-named nominees had withdrawn, a second ballot was given out to each chairman for a final vote on the remaining nominee, namely, Messrs. Custar and Hilton.

The result of the final election was as follows:

	Votes
H. E. Custar	33
W. J. Hilton	46
Total votes cast	79
Eligible voters present	79

Temporary Chairman Cotton requested Mr. Hilton to stand and asked Mr. Hilton if he accepted the office of general chairman of the regional general committee, to which he replied in the affirmative. After Mr. Hilton had accepted the office of general chairman Mr. Cotton announced Mr. Wm. J. Hilton general chairman of the regional general committee, to take office July 1, 1923.

Temporary Chairman Cotton requested that a vote of thanks be extended to the clerk and tellers of election by rising. This request was carried out by each man rising. [Applause.]

All business of this convention being completed, Temporary Chairman Cotton turned the meeting over to Mr. H. F. Custar, general chairman.

General Chairman Custar requested that a vote of thanks be extended to Mr. Cotton for his services as temporary chairman. This request was carried out by each man rising. [Applause.]

Upon the suggestion of several chairmen a rising vote of thanks was extended to Mr. Custar for his service and interest given to the employee representation plan as general chairman of the regional general committee for the past two years. [Loud applause.]

After some very interesting speeches for the good and welfare of the association a question was raised as to when and how articles pertaining to the association of shop craft employees were to be drafted and who would call a meeting for the above-mentioned purpose, and question was answered by General Chairman Custar stating that in his opinion same would be called in the near future by the newly elected general chairman, Mr. Hilton, as there would not be a sufficient time to complete this work before his term of office expired on July 1, 1923. Mr. Custar suggested to Mr. Hilton that he call a meeting for this purpose as soon as convenient after he had assumed office. Mr. Hilton stated that this action would be taken.

Motion, Mr. H. J. Corbis, boiler maker, Conemaugh division; second, Mr. J. F. Strong, blacksmith, Buffalo division, "that the meeting be adjourned." Motion carried.

Adjourned at 2.35 p. m., eastern standard time.

PENNSYLVANIA RAILROAD SYSTEM, CENTRAL REGION,
ASSOCIATION OF CRAFT EMPLOYEES,
Pittsburgh, Pa., October 4, 1923.

To all committeemen Association of Craft Employees, central region, greetings:

Kindly arrange to attend a convention of the Association of Craft Employees of the central region, to be held at the Moose Temple, 628 Penn Avenue, Pittsburgh, Pa., Thursday and Friday, October 18 and 19, at 9 a. m.

The purpose of this convention is to submit the constitution and by-laws of the association to the entire committeemen of the central region for their final approval. Other matters of importance to the association will be considered at this convention.

We desire to impress upon all committeemen the importance of this convention and urge all to attend.

Sincerely yours,

REGIONAL GENERAL COMMITTEE.
W. J. HILTON, *Chairman*.
H. A. MCGOWAN, *Secretary*.

CONSTITUTION OF THE ASSOCIATION OF CRAFT EMPLOYEES OF THE CENTRAL REGION, PENNSYLVANIA RAILROAD SYSTEM.

PREAMBLE

(*a*) To provide an avenue through which the employees may meet together with a view of maintaining harmony and confidence between themselves and management.

(*b*) To provide an avenue through which the employees and the management may mutually determine conditions and regulations under which service is performed.

(*c*) To provide an avenue through which the management and employees may directly and between themselves compose differences of opinion.

(*d*) To provide an avenue through which the employees may, by contact with one another and through discussion and investigation, advance themselves in the knowledge of their crafts and better fit themselves for promotion; and

(*e*) To provide an avenue through which methods and plans to conserve confidences and to promote efficiency and the economy in the service, may be submitted to the management for consideration, this constitution is hereby adopted.

TITLE

This organization shall be known as the Association of Craft Employees of the Central Region, Pennsylvania Railroad System.

ARTICLE I—THE ASSOCIATION

SECTION 1. The Association of Craft Employees of the Central Region, Pennsylvania Railroad System, shall include the following local associations: Pittsburgh, Conemaugh, Monongahela, Buffalo, Allegheny, Renovo, Eastern, Panhandle, Wheeling, Marietta, E. & A., C. & P., and Akron, except as provided in section 2 of this article.

SEC. 2. A local association shall include all craft employees on an operating division, or an operating division may be subdivided into two or more local associations.

SEC. 3. The term association as hereinafter used, contemplates the complete membership of the Association of Craft Employees on all divisions.

SEC. 4. The term local as hereinafter used, refers to local associations individually, provided for in section 2 of this article.

ARTICLE II—MEMBERSHIP

SECTION 1. All mechanics, helpers, and apprentices, Pennsylvania Railroad System, central region, who are actively engaged in classes of work enumerated in the graded work classification of mechanics, helpers, and apprentices, effective August 30, 1921, who are not acting in a supervisory capacity shall be entitled to membership in this association. Membership cards will be furnished all members.

SEC. 2. Membership in this association shall terminate on severance of active employment with the company.

ARTICLE III—REPRESENTATION

SECTION 1. Those in each craft on each division who may participate in this association, as defined in Article II, section 1, shall be entitled to elect from among

their number at the election held in May, 1923, three employees to represent their craft on their division.

The employee receiving the highest number of votes shall be elected for a term of three years; the employee receiving the second highest number of votes shall be elected for a term of two years; and the employee receiving the third highest number of votes shall be elected for a term of one year.

These representatives shall be known as the division committee and shall be eligible for reelection.

SEC. 2. At subsequent annual elections, as provided for in section 1 of Article V, those in each craft on each division who may participate in this association, as defined in Article II, section 1, shall be entitled to elect from among their number one employee to represent their craft on their division.

Such representatives shall be elected for a term of three years and shall be eligible for reelection.

SEC. 3. A representative shall be deemed to have vacated office upon severance of active employment with the company or upon assuming a position in a branch of the service not included in section 1 of Article II.

SEC. 4. Vacancies occurring on division committees shall be filled by the remaining members of such committee. In the event they can not reach a decision, or where there are two or more vacancies on a division committee at the same time, such vacancies shall be filled by the general craft chairman of craft where vacancies exist, subject to the approval of the regional general committee. The representative or representatives thus selected shall serve for the unexpired term of their predecessors.

ARTICLE IV.—QUALIFICATIONS OF VOTERS AND REPRESENTATIVES

SECTION 1. All employees who are entitled to participate in this association, as provided in Article I, shall be entitled to petition for nominees and vote at all elections.

SEC. 2. Employees entitled to membership in this association who have had two years' or more continuous service with the company prior to the date of election, who are American citizens, and who are 21 years of age or over on the date of election shall be eligible to the office of representative.

SEC. 3. Members of each craft in this association shall be entitled to vote only for employees in their craft to represent them.

ARTICLE V—NOMINATIONS AND ELECTIONS

SECTION 1. Nominations and elections shall be held annually in the month of May.

SEC. 2. Nominations shall be filed on the first Monday and elections held on the third Monday in the month named. Where either of these days falls on a holiday, the day immediately following shall be substituted.

SEC. 3. Nominations and elections shall be conducted by the members of this association in accordance with rules and regulations prescribed by the regional joint committee, acting as a rules committee, with such assistance from the management as may be required by said committee.

SEC. 4. Elections shall be by secret ballot and so conducted as to avoid undue influence or interference with voters in any manner whatsoever and to prevent any fraud in the counting of ballots, one member of the association from each division who is not a candidate for election shall be appointed by the division committee to act as inspector during the opening and counting of ballots.

SEC. 5. Nominations shall be by petition. Petitions signed by 25 qualified voters in a craft on a division or by 25 per cent of the qualified voters in that craft on a division, shall place the name of the one petitioned for upon the election ballot for that craft.

SEC. 6. The election ballot for a division shall contain the names of all those placed in nomination by each craft as a result of petition on that division.

SEC. 7. The number of candidates for which a voter is entitled to vote shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

SEC. 8. Voters shall indicate their preference on the election ballot by placing a cross (X) opposite the name or names of the candidates they wish to elect. Any other mark or marks shall render the ballot void.

SEC. 9. The candidate or condidates receiving the highest number of votes in each craft shall be declared elected. In the event of a tie, the regional joint committee, acting as a rules committee, shall order a special election to break the tie. At this special election only the names of the candidates who are tied will appear on the ballot.

SEC. 10. The regional joint committee, acting as a rules committee, shall determine:

(*a*) The type and location of ballot boxes and voting booths.

(*b*) The hours during which the voting will be conducted.

(*c*) The form of letter ballot to be used by those voting by mail.

(*d*) The conditions under which a voter will be permitted to vote by mail.

SEC. 11. Controversies concerning nominations or elections shall be referred to and decided by the regional joint committee, acting as a rules committee.

SEC. 12. Immediately following the counting of ballots, the regional joint committee, acting as a rules committee, shall prepare an election certificate, a copy of which shall be furnished each representative elected, a copy posted on bulletin boards, and a copy furnished the division superintendent.

ARTICLE VI—DIVISION COMMITTEES

SECTION 1. The elected representatives of each craft on a division shall constitute the division committee for that craft on that division and shall meet on the first Monday in June of each year for the purpose of organizing. At this meeting each of the division committees shall elect a chairman, vice chairman, and secretary from among their number to serve one year.

SEC. 2. The result of the election of division committee officers for each craft on each superintendent's division shall be communicated to the division superintendent and to the general chairman immediately following said election and the communication shall be signed in each case by the full division committee.

SEC. 3. Meetings of the division committees shall be called by the chairmen as occasion demands.

The division committees will look after matters of interest to each of their particular crafts in accordance with the regulations and graded work classification. The chairman will preside at all meetings of the division committee.

Local shop committees: The shop committee for each point on a division shall consist of one employee of each craft (where employees request shop committees), the shop committee shall elect a chairman from among their number to serve for a term of one year. The shop committee, or as many of them as are deemed necessary, will speak and act for the employees before their respective foreman. The chairman will preside at all meetings of the shop committee.

ARTICLE VII—THE REGIONAL GENERAL COMMITTEE

SECTION 1. The regional general committee shall be composed of a general chairman representing all crafts together with a general craft chairman from each respective craft.

SEC. 2. The general chairman representing all crafts shall be elected for a term of two years by the division chairman of all crafts.

SEC. 3. The general craft chairman of each craft shall be elected for a term of two years by the division chairman of that craft.

SEC. 4. The general chairman and general craft chairman shall be elected at a regional convention to be held on the third Tuesday in June of each odd-numbered year, beginning with 1923.

SEC. 5. The regional general committee shall be elected from among the division chairman or the retiring regional general committee, or both.

SEC. 6. The regional general committee at its first meeting after its election shall elect a vice general chairman and a secretary from among its members to serve for two years.

SEC. 7. The vice general chairman shall assist the general chairman and shall preside in his absence.

SEC. 8. Meetings of the regional general committee shall be called by the general chairman as occasion demands.

SEC. 9. Meetings of the division chairman or assembly shall be called by the general chairman as occasion demands.

SEC. 10. Vacancies occurring among the general craft chairmen shall be filled by election by the division chairmen of the craft affected from among their number. Should the office of general chairman become vacant, division chairmen of all crafts will elect from among their number a general chairman to fill the unexpired term.

ARTICLE VIII.—REGIONAL JOINT COMMITTEE

SECTION 1. The members of the regional joint committee for the employees shall consist of the general chairman and general craft chairman.

ARTICLE IX—REMOVAL FROM OFFICE

SECTION 1. If any member or members of a divisional committee fail to perform their duties in accordance with the provisions of the regulations for the government of mechanics, helpers, and apprentices, Pennsylvania Railroad System, central region, and memorandum of understanding and this constitution, such member or members may be removed from office only after a fair and impartial trial and then only providing the charge is sustained by a two-third vote of the regional general committee.

SEC. 2. If any member or members of the regional general committee fail to perform their duties in accordance with the provisions of the regulations for the government of mechanics, helpers, and apprentices, Pennsylvania Railroad System, central region, and memorandum of understanding and this constitution such member or members may be removed from office only after a fair and impartial trial and then only providing the charge is sustained by a two-third vote of the divisional chairmen of the particular craft of which he is general craft chairman.

SEC. 3. If the general chairman of the regional general committee fails to perform his duties in accordance with the provisions of the regulations for the government of mechanics, helpers, and apprentices, Pennsylvania Railroad System, central region, and memorandum of understanding and this constitution he may be removed from office only after a fair and impartial trial and then only providing the charge is sustained by a two-third vote of the entire divisional chairmen of all crafts.

ARTICLE X—GENERAL

SECTION 1. Where the day scheduled for a committee meeting fails on a holiday; the day immediately following shall be substituted.

SEC. 2. Unless otherwise specified, terms of office of representatives and of all committee officers shall commence July 1 of each year.

SEC. 3. Matters may be referred to the various committees by officers of the company.

SEC. 4. It is understood that each representative shall be free to discharge his duties without fear that his individual relations with the company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

ARTICLE XI—LOCAL ASSOCIATIONS—ORGANIZATION

SECTION 1. Each local shall elect a president, vice president, and a secretary at the regular annual meeting in June of each year. The election shall be by written or printed ballot. The candidate receiving the majority vote shall be declared elected and shall hold office for one year, or until his successor is appointed.

SEC. 2. The president or vice president may be removed by a two-third vote of the membership of the local.

SEC. 3. The secretary shall be eligible for reelection. He shall also act as secretary for the local executive committee provided in section 4 of this article. He may be removed by a two-thirds vote of the membership of the local.

SEC. 4. The work of the local shall be supervised by an executive committee of nine members, composed of president, vice president, secretary and six, executive members. The six executive members shall be the six divisional craft chairmen.

ARTICLE XII—DUTIES OF OFFICERS—LOCAL ASSOCIATIONS

SECTION 1. The duties of officers, provided for in Article XI, section 1, shall be such as usually devolve upon such officers and such as may be delegated to them by the executive committee of their local.

SECTION XIII—DUTIES OF EXECUTIVE COMMITTEE—LOCAL ASSOCIATIONS

SECTION 1. The local executive committee shall exercise general supervision over the activities and interests of the local association. They shall establish a time and place for regular monthly meetings, devise ways and means and make recommendations of other interest to the local association.

SEC. 2. The local executive committee shall select and appoint members of such standing and emergency committees as may be found necessary from time

to time for conducting the business of the local, and for investigating such matters as may come before the local.

SEC. 3. They shall present all committee reports, as received, to regular monthly meetings of the local. A two-thirds vote of members present, at the time of consideration, will be required for the adoption of any report. The local shall, by a two-thirds vote, decide which, if any, of such reports shall be referred to the association executive committee, provided for in Article XV, section 3, for concerted action by all locals.

SEC. 4. Six members of the local executive committee shall constitute a quorum for the transaction of business.

ARTICLE XIV—THE ASSOCIATION—FUNCTION OF

SECTION 1. The association shall coordinate and guide the work of the locals and further the welfare of their membership .

ARTICLE XV—REGIONAL ASSOCIATION—ORGANIZATION

SECTION 1. The officers of the regional association shall be a president, vice president, and secretary, who will be the chairman, vice chairman, and secretary, respectively, of the regional general committee provided for in Article VII. They shall be eligible for reelection. They may be removed from office in the manner provided in Article IX.

SEC. 2. The duties of the officers provided for in section 1 of this article shall be such as usually devolves upon such officers and such as may be delegated to them by the executive committee of the regional association.

SEC. 3. The seven members of the regional general committee shall constitute an executive committee which shall exercise general supervision over the activities of the regional association.

ARTICLE XVI—REGIONAL EXECUTIVE COMMITTEE—DUTIES

SECTION 1. The executive committee shall establish the time and place for the regular meeting of the association, provided for in Article VII, section 4. They will call such emergency meetings of the association as may be deemed necessary, after conference with local executive committees.

SEC. 2. They shall specify the number of delegates from each local, who will be officially authorized to attend such conventions.

SEC. 3. They shall arrange for the presentation to the convention of such reports and suggestions as may have been received from the locals, and shall appoint such standing committees and emergency committees as may be necessary to carry out the work of the convention, with the exception of the credential committee, which shall be appointed at least 10 days prior to the date of the convention by the president of the regional association and approved by a majority of the members of the regional executive committee.

SEC. 4. They shall, from time to time, attend the regular monthly meetings of the locals, and as occasion requires confer with the executive committees of the locals.

ARTICLE I—TIME AND PLACE OF MEETING

SECTION 1. The time and place of the regular monthly meeting of the locals shall be so decided by their executive committee.

ARTICLE II—QUORUM

SECTION 1. Eighteen or more members of a local, entitled to vote, shall constitute a quorum.

ARTICLE III—ORDER OF BUSINESS

SECTION. 1. The business of the meetings shall, unless otherwise ordered by vote, be conducted in the following order:

1. Reading of minutes of last meeting.
2. Report of the secretary.
3. Unfinished business.
4. New business.
5. Appointment of resolution committees (at the annual meeting, and at monthly meeting when necessary).

6. Report of committees.
7. Election of officers for the ensuing year (at the annual meeting).
8. Routine and miscellaneous business.
9. Appointment of committees.
10. Good of the association.
11. Adjournment.

ARTICLE IV—DECISIONS

SECTION 1. The votes of two-thirds of the members present shall be required to decide any question, motion, or resolution which shall come before the local.

ARTICLE V—DISCUSSIONS

SECTION 1. No question or discussion in connection with political or religious matters shall be allowed.

SEC. 2. No one but members of the association, except by invitation, may attend the meetings of the locals. (Invitation to be approved by two-thirds of members present.)

SEC. 3. No member shall speak more than twice in the discussion of any question, until all other members present who desire to speak and have not been heard, have spoken.

SEC. 4. Before a motion to close or end a discussion is submitted to a vote, the president shall ask the question whether or not any other members desire to speak on the subject matter before the meeting, and he shall give opportunity to any one who wishes to speak to do so. The motion shall then be submitted to a vote and the proceedings governed in accordance therewith.

ARTICLE VI—REPORTS

SECTION 1. Reports of committees should be in the hands of the secretary at least three days in advance of the regular meeting day, so that copies, for use at the meeting, may be prepared.

SEC. 2. The chairmen of standing and emergency committees will read an abstract of the report before the meeting.

SEC. 3. The members of standing or emergency committees, who may individually or collectively submit minority reports, must prepare same so that they can be issued with the majority report, or substituted for the majority report, if the meeting should so decide.

SEC. 4. Each member of standing or emergency committees must sign either the majority or minority report.

ARTICLE VII—AMENDMENTS

Section 1. Amendments to this constitution and by-laws must be approved by the regional general committee and to become effective must be ratified by a two-thirds vote of all local craft committeemen.

THE FOLLOWING RULES MAY BE USED TO GOVERN DEBATE

Rule 1. On motion, the regular order of business may be suspended by a two-thirds vote of the meeting at any time to dispose of anything urgent.

Rule 2. All motions (if requested by the chair) or resignations must be submitted in writing.

Rule 3. Any conversation by whispering or otherwise which is calculated to disturb a member while speaking or hinder the transaction of business shall be deemed a violation of order.

MOTIONS

Rule 4. A motion to be entertained by the presiding officer must be seconded, and the mover as well as the seconder must rise and be recognized by the chair.

Rule 5. Any member having made a motion can withdraw it by consent of his second, but a motion once debated can not be withdrawn except by a majority vote.

Rule 6. A motion to amend an amendment shall be in order, but no motion to amend an amendment to an amendment shall be permitted.

DEBATE

Rule 7. A motion shall not be subject to debate until it has been stated by the chair.

Rule 8. When a member wishes to speak, he shall rise and respectfully address the chair, and, if recognized by the chair, he shall be entitled to proceed.

Rule 9. If two or more members rise to speak at the same time, the chair shall decide which is entitled to the floor.

Rule 10. Each member, when speaking, shall confine himself to the question under debate and avoid all personal, indecorous, or sarcastic language.

Rule 11. No member shall interrupt another while speaking except on a point of order, and he shall definitely state the point, and the chair shall decide the same without debate.

Rule 12. If a member while speaking be called to order, he shall take his seat until the point of order is decided, when, if declared in order, he may proceed.

Rule 13. If any member shall feel himself personally aggrieved by a decision of the chair, he may appeal to the body from the decision.

Rule 14. When an appeal is made from the decision of the chair, the vice president shall then act as chairman; said appeal shall then be stated by the chairman to the meeting in these words: "Shall the decision of the chair be sustained as the decision of this association?" The member will then have the right to state the grounds of appeal, and the chair will give reasons for his decision; thereupon the members will proceed to vote on the appeal without further debate, and it shall require a majority vote to sustain such an appeal.

Rule 15. The presiding officer shall not speak on any subject unless he retires from the chair, except on points of order, and in case of a tie he shall cast the deciding vote.

PRIVILEGE QUESTIONS

Rule 16. When a question is before the meeting, no motion shall be in order, except:

1. To adjourn.
2. To lay on the table.
3. For the previous question.
4. To postpone to a given time.
5. To refer or commit.
6. To amend, and these motions shall have precedence in the order herein arranged. The first three of these motions are not debatable.

Rule 17. If a question has been amended, the question on the amendment has been amended, the question on the amendment has been offered, the question shall then be put as follows:

1. Amendment to the amendment.
2. Amendment.
3. Original proposition.

Rule 18. When a question is postponed indefinitely, it shall not come up again, except by a two-thirds vote.

Rule 19. A motion to adjourn shall always be in order, except:

1. When a member has the floor.
2. When members are voting.

Rule 20. Before putting a question to vote, the presiding officer shall ask, "Are you ready for the question?" Then it shall be open for debate. If no member rises to speak, the presiding officer shall then put the question in this form: "All in favor of this motion say 'aye';" and after the affirmative vote is expressed, "Those of the contrary opinion say 'no'." After the vote is taken he shall announce the result in this manner: "It seems to be carried (or lost); it is carried (or lost) and so ordered."

Rule 21. Before the presiding officer declares the vote on a question, any member may ask for a division of the house. Then the chair is in duty bound to comply with the request, and a standing vote shall then be taken, and the secretary shall count the same.

Rule 22. When a question has been decided, it can be reconsidered only by a two-thirds vote of those present.

Rule 23. A motion to reconsider must be made and seconded by two members who vote with the majority.

Rule 24. A member being ordered to take his seat three times by the chair, without heeding, shall be debarred from participating in any further business at that session.

ASSOCIATION OF CRAFT EMPLOYEES PENNSYLVANIA RAILROAD SYSTEM CENTRAL REGION

Card No. ———. Date ———, ———.
This certifies that ———
Occupation ———
Location ———
Division ———
Is a member of this association as per article 2 of the constitution.

W. J. HILTON, *President.*

Countersigned:

———— ————,
General Craft Chairman.

[Duplicate.]

ASSOCIATION OF CRAFT EMPLOYEES PENNSYLVANIA RAILROAD SYSTEM CENTRAL REGION

Card No. ———. Date, ———, ———.
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W. J. HILTON, *President.*

Countersigned:

———— ————,
Division Craft Chairman.

[Triplicate.]

ASSOCIATION OF CRAFT EMPLOYEES PENNSYLVANIA RAILROAD SYSTEM CENTRAL REGION

Card No. ———. Date, ——— ———.
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Occupation ———
Location ———
Division ———
Is a member of this association as per article 2 of the constitution.

W. J. HILTON, *President.*

Countersigned:

———— ————,
Division Craft Chairman.

STATEMENT OF JOHN C. SCHAFER, REPRESENTATIVE IN CONGRESS FROM THE FOURTH DISTRICT OF WISCONSIN

Mr. SCHAFER. I wish to state that I am heartily in favor of the passage of the Howell bill (S. 2646), which has for its purpose the expeditious and prompt settlement, mediation, conciliation, and arbitration of disputes between carriers and their employees and subordinate officials, and for other purposes. Having been actively employed in the engine service of one of the western railroads for a number of years, I know from my own personal knowledge that the functioning of the Railroad Labor Board in settlement of disputes between carriers and employees has been very unsatisfactory, especially to the employees. The representatives of the railway employees have fully presented to this committee facts to warrant the enactment into law of the Howell bill (S. 2646). I, therefore, will not incumber the records with a duplication of arguments

which have already been presented. I urge the committee to report favorably this bill for passage at an early date, firmly believing that the enactment of same into law will be of great benefit to the general public, to the railway employees, and to the carriers.

BRIEF SUBMITTED BY GENERAL OFFICERS OF SHOP CRAFTS PROTECTIVE LEAGUE AND ASSOCIATION OF SUPERVISORS, SOUTHERN PACIFIC CO. (PACIFIC SYSTEM)

Referring to Senate bill 2646, introduced by Hon. Robert B. Howell, providing for the expedition and prompt settlement, mediation, conciliation, and arbitration of disputes between carriers and their employees and subordinate officials, and for other purposes:

We respectfully submit to your honorable body our objections contained herein to the proposed bill, and urgently solicit your earnest consideration.

We the undersigned, general chairmen of the system organization known as "The Shop Crafts Protective League," Southern Pacific Co. (Pacific system), representing a membership of 12,305 of a possible eligible membership of 13,429, as of March 1, 1924, comprising the six crafts employed in motive power and car departments, Southern Pacific Co. (Pacific system); also the undersigned, president of the "Association of Supervisors," Southern Pacific Co. (Pacific system), representing a membership of 551 supervisors out of a possible eligible membership of 562, as of March 1, 1924, classified as subordinate officials and employed in the motive power and car departments of the Southern Pacific Co. (Pacific system), enumerate our objections as follows:

1. Conditions surrounding electric and shipyard operations are so essentially different from steam operations they can not be considered in the same class and have been excluded generally from national regulations.

2. The fact that under the transportation act the labor board and boards of adjustments, including labor bureaus, have been established and devote their time to considering and adjusting complaints, proves that methods of adjusting disputes have been amply and satisfactorily provided for.

3. The fact that for years prior to the transportation act, the Erdman and Newland Acts, establishing and maintaining Board of Mediation were in effect, during which the railroads were constantly confronted with demands, and the country kept in a state of turmoil resulting from threatened strikes, which reached a distressing stage in 1916, forcing the United States Congress to hastily pass the Adamson 8-hour law, proves that mediation has not been successful in preventing calamities in the past.

4. The fact that during Government control of railroads, adjustment boards similar to those proposed failed to create and maintain peace and tranquility proves that the authors of proposed bill are mistaken in claiming that bill No. 2646 will better serve the interests of all concerned than the present transportation act; furthermore, the fact that the railroads were constantly involved or threatened with strikes during Government operation, culminating in a threatened national calamity when the railroads were returned to their owners, and was only prevented by the personal assurance of President Wilson that a conference between general managers and labor leaders would be arranged to consider pending universal demands, proves that the adjustment boards as proposed have been tried and found wanting, which can be again expected under law contemplated.

5. The fact that under the transportation act the public is represented and has the determining voice in deciding wages and working conditions creates a proper balance and affords opportunity in fixing wages and working conditions to give consideration to rates charged the public for transportation, strongly argues in favor of continuing present methods, and there is no necessity for the proposed bill.

6. The fact that proposed measure makes no provision for representation of those not affiliated with labor organizations creates a discrimination as between union and nonunion men and can not be condoned or sustained by justice or reason. In fact, it is obvious if bill No. 2646 becomes a law it will establish the one big union principle, with its evil consequences, as reflected at present in Great Britain, Germany, and other European countries.

7. The fact that those not affiliated with labor organizations are excluded from representation would have the effect of forcing the closed shop upon the railroads for the reason that boards made up solely of union men representing employees would make it morally essential that all employees come within their scope of representation, thereby further establishing the one big union principle.

8. The fact that submission of disputes to boards of mediation and arbitration is not mandatory, leaves the public and railroads at the mercy of labor unions, thereby reviving the irritated condition existing during mediation under the Erdman and Newland Acts. In fact, during that period, as the organizations grew in number and strength, they also grew to ignore mediation and conciliation, resulting in their assuming a very belligerent and militant attitude, and instead of mediating their demands, they forced them through, regardless of consequences, and we can expect the same attitude under the proposed measure.

9. The fact that the transportation act makes it mandatory that all disputes must be referred to the Labor Board for consideration and decision in a great measure precludes the possibility and danger of strikes, and this is what the unions are attempting to destroy; in other words, they seek to use their militant strength in forcing concessions, rather than by conservative, peaceful methods. If this was not so, they would not object to the public being represented on adjustment boards.

10. With respect to shopmen's strike in 1922, this catastrophe followed in the wake of Government control and was passed on to the Labor Board in such a state of antagonism and ignoble misrepresentations by labor leaders that it was impossible for the Labor Board to reconcile labor's unjust demands. This blunder, however, on the part of the labor leaders should not be used to discredit the Labor Board.

11. The fact that adjustment boards and board of mediation under proposed plan are to be appointed by the President and confirmed by the Senate would, no doubt, result in partisan, political, and personal controversies as between Governmental representatives and labor representatives. No doubt labor will assume to influence Congress to appoint those whose records reflect that they are prejudiced in favor of labor, and defeat the appointment of men whose attitude is in the interests of all concerned, and would veto unwarranted demands.

12. Records on file with United States Department of Labor will verify the unsettled and agitated condition of the country during period mediation and conciliation laws were in effect, and records of the United States Railroad Administration will confirm disturbed condition and attitude assumed by organizations during period of Government control with respect to unreasonable demands accompanied by strikes and threatened strikes.

Conclusion: The organizations we represent are not affiliated with the so-called nationally organized crafts as referred to in section 3, paragraph (B) of proposed Senate bill 2646, which stipulates that the nominees for the members of the several boards of adjustment, particularly board of adjustment No. 2, having jurisdiction over disputes arising among employees of the organizations we represent.

Therefore employees we represent not being affiliated with national craft organizations, would be denied the right to make nominations under the proposed bill, resulting in discrimination as between union and nonunion men.

We respectfully submit the above in a spirit of fairness to the 12,856 employees whom we represent, that they be not denied their inalienable right granted by our National Constitution.

Dated April 7, 1924.

SHOP CRAFTS PROTECTIVE LEAGUE,
E. W. KILGORE, *General Chairman.*
PENN J. MAYS, *General Chairman.*
ASSOCIATION OF SUPERVISORS,
D. O. HERRICK, *System President.*

(Statement of A. P. Thom in reply to Mr. Richberg's charges is here printed in full as follows:)

STATEMENT OF MR. A. P. THOM IN REPLY TO MR. RICHBERG'S CHARGES

At the conclusion of the presentation on April 4 of a statement by Mr. Richberg, the counsel for the proponents of this bill, Mr. A. P. Thom, general counsel, Association of Railway Executives, stated to your committee:

"The statement read here this morning by Mr. Richberg contains such unjustified aspersions upon the motives of honorable men and such misrepresentation of the facts and the law, and such defamatory statements in regard to the witnesses that we would like to have the opportunity of presenting to the committee a statement in reply at the proper time. If the conditions of the committee will not enable it to hear our witnesses orally, we will file with it a written statement." (Stenographic record, pp. 579, 580.)

The committee agreed to the fairness of this request. Senator Couzens, chairman of the committee, said:

"With the consent of the committee, we will let you file a written statement."

Senator Gooding agreed that we were entitled to an opportunity for reply, stating in one place: "I think, of course, you should have an opportunity to reply * * *;" and in another place, "I think they are entitled to make a reply."

At Senator Gooding's suggestion, however, the committee expressed its preference that we reply through a witness who would appear before the committee on Tuesday, April 8. We were preparing, in accordance with our understanding of the committee's desire, to present our reply through a witness on that date; but owing to the unexpected closing of the hearings on Monday we were left only with the opportunity to make our reply in written form. We present it herewith to the committee, with full confidence that it will agree with us that, in the interest of fairness and justice, it be included in the record which already contains the charges by the counsel for the proponents of this bill—charges at once reckless and without foundation in fact.

The committee will not expect us, nor do we desire, to descend to the police-court methods of epithet and vituperation employed by Mr. Richberg. We shall not do so. Nor is it necessary to answer in detail every distortion of statement and every attack upon witnesses made by him. This memorandum has been confined to the principal points in his statements.

I

In his opening statement, on April 4, Mr. Richberg accuses a railroad witness of "a distortion of the language or the natural meaning of the language" of the bill. And in the immediately following paragraphs of his own statement he proceeds to make a gross distortion and misrepresentation of the evidence of this witness.

He states that this witness "objects to the imaginary permission given by the bill to labor organizations to represent men who do not want to be represented, stating that it is proposed to give them a right by law to represent men who do not desire their representation, and states the intent of the bill is 'to establish by law the control of national organizations over railroad employees.'"

And in answer to this he says:

"The bill expressly provides that the spokesmen for all employees and subordinate officials shall be 'representatives designated and authorized so to confer,' which is exactly the requirement under the transportation act."

This is a gross distortion and misrepresentation of the testimony of the witness.

The nearest approach to the foregoing statements which can be found in the testimony of this witness is the following, taken from page 16 of the mimeographed statement of the witness:

"It appears that the intent of the framers of this bill is to establish by law the control of the national organizations over railroad employees. * * * Such organizations can not show that they have been selected by the employees on all the individual properties to represent them, and if such boards of adjustment were adopted by an act of Congress, it would appear that the employees on the individual properties would be compelled to accept representation by such labor organizations."

In making these statements the witness was speaking of subdivision B of section 3, namely, the establishment of four national adjustment boards and the method of designation provided in the bill for labor representatives.

Mr. Richberg has endeavored to make the criticism apply to subdivision A of section 2, which provides for conferences, in the face of the fact that for eight pages preceding the testimony quoted and referred to by Mr. Richberg the witness was discussing the establishment of four national boards of adjustment and for several pages following the same discussion continued.

In the paragraph immediately following the quotation cited by Mr. Richberg, the witness said:

"Such organizations can not show that they have been selected by the employees on all the individual properties to represent them and if such boards of adjustment were adopted by an act of Congress it would appear that the employees on the individual properties would be compelled to establish representation by such labor organizations."

Thus, Mr. Richberg, with evident deliberation, takes the language of the witness referring specifically to representation on boards of adjustment and seeks

to make this committee believe that it was used in reference to the selection of representatives on individual properties for the purpose of conferences with managements. This again is a gross distortion and misrepresentation.

Mr. Richberg states that one of the requirements of the bill is that representatives shall be designated without interference, influence, or coercion by either party over the self-organization or designation of representatives by the other, and goes on by stating that the witness completely distorts this requirement by stating repeatedly that this prevents the management from "submitting its side of the case" to the employees.

He further says:

"Nothing could be more absurd than to claim that when conferences are held and every reasonable effort to make and maintain agreements are required, there is anything in the act which prevents a management from submitting its side of the case completely to the employee."

The witness's criticism of the provision of the act to which reference is made was that if an organization which violates its contracts and shows itself in other ways as utterly subversive of discipline or of orderly procedure shall endeavor to secure representation on a given road, it seems only fair that the management should be allowed, in an open and fair way, to place before its employees the character of its objection to dealing with such an organization, and he says:

"If a management were dealing with a responsible organization and an outlaw organization attempted to get a foothold on the property and disrupt operations, a management would, under this language [language of the bill], be estopped from submitting its side of the case to the employees and from endeavoring in the interest of uninterrupted transportation to persuade its employees to remain with the responsible organization."

Mr. Richberg, by quoting the following language from subdivision (a) of section 3, paragraph (1), "representatives designated and authorized so to confer," has endeavored to make the impression upon this committee that the witness in the foregoing statement was referring to the provisions of the bill quoted above in respect to conferences, in the face of the fact that no such interpretation could by any possibility be placed upon the testimony of the witness.

Mr. Walber further said, in the same connection:

"The words 'interference' and 'influence' could be construed to prevent a perfectly fair, open, and legitimate attempt on the part of a management to put before its employees its side of the case, thus leaving the management in the situation of being unable to protect itself against possible misrepresentation of its position to the employees whose interests are interwoven with the success of the properties."

Both of these statements of Mr. Walber are used in connection with paragraph (2) of subdivision (A) of section 3 of the bill (lines 6 and 7, page 7, of the bill) which relates only to interference or influence in connection with the question of who should be chosen to represent the organizations. It is manifest that in neither of these statements was Mr. Walber claiming that the effect of the bill was to prevent the management from putting before the employees its side of the case in the sense of its side of the controversy which was under consideration by the conference. For a full page Mr. Walber was advancing the argument that it should be the right of a railroad to acquaint its employees in an open and fair way with the character of its objections to dealing with representatives of an organization which might be selected.

Mr. Richberg's effort to make this committee believe that Mr. Walber was advancing any such claim or trying to make any such impression is plainly without the least support and is again a distortion and misrepresentation of what the witness said.

We reiterate that the witness was correct in his conclusion and his interpretation of the language used in the bill in this particular, and that the result of the criticized language of the bill would be to prevent managements from counteracting misrepresentations made to employees wishing to make honest decisions as to the selection of organizations and representatives to care for their interests in conference.

II

In response to the criticism of subdivision (3) of section 3 of the bill, Mr. Richberg states that the requirements in that subdivision go no further than common practice in the courts of the country, whereby any suitor has a right to make a motion to bring the opposing party into court in order that the matter may be set for a hearing, and he states:

"The court may not be able to hear the case immediately, but the right to institute it and compel the attention of an adversary is absolute. If railroad

officials are too busy with the multiplicity of disputes to proceed immediately to negotiations and conferences, the present bill only requires that such negotiations shall be instituted to be considered and, if possible, decided with all expedition."

The requirements to which objection was made were those providing for the giving of notice of the existence of a dispute and the mandatory provisions that within 10 days after the receipt of the notice a time and place at which a conference should be held must be given, and that the conference shall be held within 20 days after the receipt of such notice.

The analogy sought to be drawn by Mr. Richberg between this provision and the practice relating to the institution of suits in courts is in no sense justified. It is true that any one may bring suit in court and that a person sued must answer within a certain time, but the time for the trial of the case is an entirely different matter from the institution of the suit and depends upon a number of factors, among them the engagements of the court, the engagements of counsel and of the parties. The objections to the requirements of the bill are, that upon the receipt of a notice of a desire to confer, a time for the conference must be designated within 10 days after the receipt of the notice, and that the conference must be held within 20 days after receipt of such notice. There is no rule of law which requires, after a suit is instituted and the defendant is brought into court by notice, that the trial shall be held within a given number of days, as Mr. Richberg seeks to indicate; whereas there is a provision here that the conference must be held within 20 days after the receipt of the notice.

Here again is a gross misrepresentation, "that the requirements of the bill in the respect mentioned go no further than common practice in the courts of the country."

The requirements of the bill in this regard might be utterly impracticable on account of the engagements of designated representatives of either party, and, in case of such impracticability, it would involve a violation of law.

It is the experience, as the witness said, of many large systems that there may be anywhere from 10 to 15 organizations with which a management has to deal and that it is not unusual for conferences with a single organization to continue the greater part of a week, or even beyond a week, and that it is not unusual for a management to have a succession of conference dates one after another with different organizations, which, together, take up many weeks. Reasonable latitude must be given for the setting of a time for a conference, not only in order that the convenience of all parties may be studied, but that time may be given to study and ascertain the particular facts in the matter, and 20 days is in many cases all too little for these purposes. Many cases, of course, could be disposed of perhaps within that time. Many more involving difficult, technical questions and disputed questions of fact would require much more than 20 days in preparation for such conference.

Manifestly the policy of railroad managements is not to postpone the settlement of disputes with their employees from time to time for purposes of delay, as it is recognized by them that, not only as a matter of fairness , but also as a matter of good policy, disputes, and grievances must be discussed and adjusted in the shortest possible time.

The fact is that the representatives of the employees who conduct these conferences frequently live many miles away from the main offices of the railroad company at which such conferences must in most instances be held, and it would be futile to follow his fallacious analogy of court procedure and bring these representatives possibly hundreds of miles to a formal and perfunctory conference only to learn that the conferences to dispose of the dispute could not be undertaken for some weeks to come.

If the management did such a thing, even if it were not a violation of the provisions of the bill, the representatives of the employees would properly resent it and we would later listen to vituperative attacks by Mr. Richberg on the dishonesty of managements who would be accused by him of trying to break down organizations by piling up needless expenses and of trying to make a farce of the law.

The plain fact is that this provision of the bill has been shown to be so obviously and utterly impracticable that its proponents are driven to the awkward alternative of either frankly so acknowledging or of putting a construction upon it that is a crude and palpable perversion of its language. Here again is a gross distortion and misrepresentation by Mr. Richberg of the meaning and effect of the bill.

III

Mr. Richberg challenges our contention that the intent of the bill is to give to the national organizations supporting this bill the exclusive right to name the

labor members on these boards of adjustment. In his attack on the railroad representatives in connection with their discussion of the boards of adjustment set up in the proposed law, Mr. Richberg states:

"The objections to these boards of adjustment are each and every one on misrepresentations of the law."

He states:

"The bill provides that any nationally organized craft can nominate two persons for each position to be filled, of which two only one can be named."

The outstanding fact is that the classifications of employees and subordinate officials from which members of the boards of adjustment are to be selected have been designed so that in practically all cases there is only one nationally organized craft of the particular classification of employees set up in the bill. Merely as a single instance, on board No. 3 the first classification is "railroad and steamship clerks, freight handlers, warehouse, storehouse, express and station employees." Further down in the bill it provides that the nominations are to be made by "each of the nationally organized crafts above described;" and there is only one "national organization" that could fit this classification.

Moreover, the plain intent of the bill is shown in very clear language in "The digest of the railroad labor act," which was filed with the committee as an exhibit by the proponents of the bill. On page 13 of this digest there appears the following caption: "The boards of adjustment—Employees within each board and the corresponding national labor organization."

Then in two parallel columns are given each class of employee to be represented on the board, and the "corresponding national labor organization." In each and every instance the organization designated is one of the 20 organizations supporting this bill. The provisions of the bill that nominations for the several boards of adjustment shall be made by "each of the nationally organized crafts above described" identifies the organizations as plainly as if they were specifically named.

There is published in Washington "a national weekly newspaper" called Labor. It is owned by 16 railway unions of the United States. The chief executives of four of the national organizations supporting this bill are members of the board which controls its editorial policy. It can not, therefore, be an unfair assumption that they know the real intent of this bill.

In the issue of Labor of March 8 there appears the following:

How Proposed "Railway Labor Act" Would Opreate—Simple But Effective Machinery Provided to Dispose of all Disputes

BOARDS OF ADJUSTMENT

Four boards of adjustment are created by the proposed railway labor act. The classes of employees which would come under the jurisdiction of these boards together with the names of the organizations which would represent the workers follow:

Board No. 1

Engineers.—Brotherhood of Locomotive Engineers.

Firemen and hostlers (including outside hostler helpers).—Brotherhood of Locomotive Firemen and Enginemen.

Conductors.—Order of Railway Conductors.

Trainmen.—Brotherhood of Railway Trainmen.

Switchmen and train service men.—Switchmen's Union of North America.

Telegraphers (including telephoners, agents, lever men, train directors, tower men and staff men).—Order of Railroad Telegraphers.

Train dispatchers.—American Train Dispatchers' Association.

Board No. 2

Machinists, helpers, and apprentices.—International Association of Machinists.

Boilermakers, helpers, and apprentices.—International Brotherhood of Boilermakers, Iron Ship Builders, and Helpers of America.

Blacksmiths, helpers, and apprentices.—International Brotherhood of Blacksmiths, Drop Forgers, and Helpers.

Sheet metal workers, helpers and apprentices.—Amalgamated Sheet Metal Workers' International Alliance.

Electrical workers, helpers, and apprentices.—International Brotherhood of Electrical Workers.

Carmen, helpers, and apprentices. — Brotherhood of Railway Carmen of America.

Signalmen, helpers, and assistants.—Brotherhood of Railroad Signalmen of America.

Board No. 3

Railway and steamship clerks, freight handlers, warehouse, storehouse express, and station employees—Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees.

Stationary engineers, firemen, and oilers, engine house and shop laborers—Brotherhood of Stationary Fireman and Oilers.

Maintenance of way employees, bridge and building employees, section men, coal-chute laborers, crossing watchmen, and pumpers—United Brotherhood of Maintenance of Way Employees and Railroad Shop Laborers.

Board No. 4

Masters, mates, and pilots—National Organization, Masters, Mates, and Pilots of America.

Longshoremen—International Longshoremen's Association.

Marine engineers—National Marine Engineers' Beneficial Association of the United States of America.

Labor has no illusions as to who will name the representatives of the employees on these boards and it undertakes no camouflage on this topic. It will be noted that the opening paragraph, above quoted, states the list of organizations there given "are the organizations which would represent the workers" on these boards. And these organizations are the 20 organizations supporting this bill.

It has already been shown that in making up the classes that are to have representation on these boards there is an absurd disproportion between the numbers represented; for instance, the Switchmen's Union of North America with less than 10,000 members will select one representative on board No. 1, while the Brotherhood of Railroad Trainmen, who claim to have a membership well over 150,000 will select one member. In fact, 20 classifications have been made for these 4 boards to fit exactly with the 20 organizations supporting it.

Mr. Richberg, in his statement, refers to a letter which he had placed in the record from Walker D. Hines, at one time Director General of Railroads, and it is of interest in this connection to note what Mr. Hines said as to the adjustment boards which were proposed to be set up in the original draft of the transportation act, such boards to deal with grievances. Mr. Hines says:

"As to the adjustment boards I found that the provision agreed upon by the conference undertook to specify the organizations of employees which should be represented upon these boards, and would result that the board of adjustment which would pass upon grievances would be dependent upon that particular organization to which the employee belonged, thus producing a great deal of confusion and endless jurisdictional conflicts between different organizations. I therefore advised that the entire matter of boards of adjustment be left to the agreement of the carriers and the employees instead of being rigid and inelastic by statute specifications."

This is precisely the criticism that is now being made of the method proposed in this bill of creating the boards of adjustment, and the language of the bill supports the criticism.

Mr. Richberg proceeds in his argument and calls attention to the alleged fact that the Labor Board, which he is endeavoring to persuade Congress to abolish, and the four boards of adjustment, which he is endeavoring to persuade Congress to create, possess the same essential characteristics in the matter of the decision of disputes to be submitted to them, and he adds that all arguments which have been adduced by carriers against the creation of boards of adjustment apply with equal force to the Labor Board. A significant omission in his statement is that the public is represented upon the Labor Board and is not represented upon the boards of adjustment, and the carriers in their presentation of their objections have endeavored to make it clear that the public must have representation in view of its great interest in the whole question of transportation and that no such representation is provided for in the proposed bill.

The proponents of the bill argue that any other "national organizations" may offer nominations for these boards. In support of this, reference has been made

to the fact that the bill provides for "not less than" a certain number of nominations. But the language of the bill appears carefully designed to bar out all organizations except those proposing the bill. Machinery for the designated organizations to make nominations of their representatives is carefully set up. If it was intended to give a fair chance to employees represented by other organizations that contain many thousands of railroad workers, why was not machinery provided in the bill for the purpose?

If any outside organizations other than those designated in the bill are to make nominations, they must find a way to do so outside of the bill's provisions. This difference in treatment is clearly significant, and the interpretation put upon the meaning of the bill and the expectations of its authors are unmistakably indicated by the extract from the digest and from the publication Labor hereinbefore referred to.

The proponents of the bill evidently have some consciousness of how bald are their proposals to have set up tribunals of public officers upon which they shall name the representatives of labor; and Mr. Richberg, interspersed with his repeated charges of distortion of the bill, makes occasional efforts to soften and to camouflage its provisions. For instance, he states to you that "* * * the adjustment boards are not chosen by the employees. The adjustment boards are appointed by the President of the United States * * *." But he feels constrained to admit that for the purpose of "aiding" the President, nominations are to be offered.

The naked fact is that the proposal of the proponents of this bill is to set up an official Federal tribunal, the membership of which is actually selected by two groups of citizens; and the President of the United States in naming the labor members is merely permitted the option of saying which of the two persons named by each of these 20 organizations he prefers to name. The membership of the board is in reality intended to be chosen by these organizations and by the managements.

In reply to our contentions that these official adjustment boards, organized and controlled on the labor side by the 20 organizations supporting this bill, would not furnish a fair tribunal of appeal for a craft on a road where such craft was organized locally and was regarded with hostility by the organizations represented on the board, Mr. Richberg states:

"If a railroad and its employees desire to agree upon a local board of adjustment such a board is not prohibited. Such a board is merely an extension of the conference system between representatives of both parties, and its decisions are decisions in conference as provided for in sections 2 and 3."

No hint of such a permission is given anywhere in the bill. Its language would appear to require that when any dispute is not settled in what we have always understood by the word "conferences"—

"It shall within fifteen days after such failure to decide be referred by the parties thereto to the adjustment board which under the provisions of this act is authorized to hear and decide such dispute."

We are glad to have Mr. Richberg's assurance, speaking for the 20 organizations supporting the bill, that the proposed bill would not prohibit or prevent managements and employees on individual lines from setting up their local boards of adjustment to dispose of their disputes at home. But, in view of what managements and men alike, naturally unskilled in the technical language of law, have understood to be meant by "conferences," it is unfortunate that in the interest of clarity Mr. Richberg's construction of the bill was not written into it in plain terms. If that is the proper interpretation of the bill, and the managements and men are still left free to constitute voluntary boards of adjustment and not to resort to these four permanent, national boards of adjustment, it may easily result that the four national boards, permanently created and maintained at enormous public expense, may be without much occupation.

It has been our contention, and in the face of all that has been said by Mr. Richberg it is still our sincere belief, that not only was this bill drawn and these national boards of adjustment created for the purpose of giving the 20 organizations named in the digest the control of such boards, but it is our further conviction that the framers of this bill know what the natural results would be of the provisions for the selection of representatives on the boards of adjustment, the inclusion of subordinate officials with employees, the provisions that the boards of adjustment would have the decision of disputes affecting subordinate officials, the natural belief that if they were to get fair treatment they would have to affiliate themselves with the employees, and the natural belief of employees that in order to get fair treatment they would also so affiliate themselves with the organizations who would have the power to decide questions affecting their wel-

fare; all of which justify us in the conviction that the results would be to give them control over the railroad employees and to all intents and purposes effectuate closed shop conditions.

IV

Mr. Richberg ascribes to the carriers a denial that the organizations supporting the bill "represent a great majority of railroad employees." Here again, while consistently following his policy of substituting vituperation for legitimate argument, he states:

"The denial is false; and the figures which have been brought in, in support of this false claim of the carriers, are about as dishonest and misleading statistics as have probably been submitted to a committee of Congress, and that is making quite a strong assertion."

No statement was made anywhere by any witness appearing for the carriers that the organizations supporting this bill do not represent a majority of railroad employees; and the charge that such statement was made appears to have been set up merely to give an opportunity for an attack upon the integrity of witnesses who appear before this committee. A statement was made, and is here repeated, without fear that it will be challenged, that—

"It is well known that there are more than a majority in many of the railroad crafts that are not affiliated with organizations appearing at this hearing and which do not desire to be represented by them because they have their own established methods of dealing with the companies for which they work."

The same witness for the carriers stated further:

"The proponents of this measure do not represent 2,000,000 of railroad workers as claimed, but a much smaller number, and there are hundreds of thousands of railroad workers who are not represented by them at all in this proceeding."

It is impossible to construe either of these statements into an assertion that the organizations supporting this bill do not embrace a majority of the employees of the railroads. What this witness endeavored to bring to the attention of the committee, and what other witnesses stated, was that there were many thousands of railroad employees who had given no authority to the organizations supporting this measure to represent them or speak for them before this committee.

The chairman of the committee, after the statement above quoted, asked the witness for the railroads if he could give the committee the percentage of employees whom he thought the proponents represented. Mr. Richberg heard the statement by the railroad witness just as the chairman of the committee heard it made; but the chairman of the committee received no such impression as Mr. Richberg, for he asked the following question:

"In your statement you stated that the proponents of this bill represented a substantial number of the employees of the railroads, but not all. Could you tell us what percentage you think the proponents represent?"

The witness replied that he could not give any information on that subject, but other witnesses would.

The figures were furnished in support of statements by railroad witnesses that the proponents of this measure did not represent all railroad workers, that in many of the particular crafts they did not even represent a majority, and that there were hundreds of thousands of railroad workers who were not represented by them at all in this proceeding.

In support of his denunciation of these figures and with the evident intent of misleading the committee into the belief that the proponents did represent practically all railroad workers, Mr. Richberg quotes a statement of the Interstate Commerce Commission made November 1, 1920, to the effect that those in position to speak with competence and authority have stated that more than 90 per cent of railroad employees are members of, or are represented through, the organizations of employees supporting this measure. He further says that this statement was repeated by the commission again as late as April 16, 1921. But Mr. Richberg himself has abundant personal knowledge that after the date of these statements hundreds of thousands of certain crafts left the service of the railroads in an unjustifiable strike and that a very large proportion of them have never been reinstated in railroad employment, and that those who now fill their places are in very large part not members of these organizations and have gven these organizations no authority to speak for them. Representatives of these employees were before this committee since Mr. Richberg's statement, furnishing it proof of the many thousands that they represented. It is equally true, although Mr. Richberg may not be conscious of this fact, that, since the date of the statement of the Interstate Commerce Commission, thousands and

thousands of employees have dropped out of organizations of railroad crafts other than those above referred to.

In further support of his attack on the figures, Mr. Richberg cites the Labor Board in reference to the matter of the Pennsylvania Railroad. The witnesses. who appeared here as representatives of the carriers as a whole, must obviously leave it to any individual road whose figures are attacked before the committee to reply to that attack. But attention is called to the fact that the figures stated by Mr. Richberg for the Pennsylvania Railroad represented a condition prior to the nation-wide strike of 1922; and representatives of independently organized crafts on the Pennsylvania Railroad have been before this committee since Mr. Richberg's statement was made, to prove that at this present time they do represent a large majority of certain crafts on that road.

As evidence of the fairness of the figures and of the absence of any wish or intent to mislead the committee on the part of either the roads that submitted their figures or the witness who presented them, that witness, in the beginning of his presentation, stated that at no time was any question ever raised by the carriers as to the representation of engineers, firemen, conductors, and trainmen by the organizations of those employees. In the figures relating to maintenance of way employees in the West he stated that the proponents of the bill had contracts covering 180,000 employees, or 92.3 per cent; while other representation shows 15,000 employees, or 7.7 per cent. It is well known that there is nothing like 180,000 employees of the class represented by the maintenance of way organization who are in that organization; but since the organization represents the men on carriers who employ that number of men full credit was given them for representing these employees because they held the contract, and entirely irrespective of whether all the employees were or were not members of the organization. Similarly, in another place credit was given to the proponents of this bill as representing 107,000 employees in the clerical and station forces, or a percentage of 85.6, and these figures were given with full knowledge that many of those represented by this organization were not members of it. It was explained fully that the railroads had no figures available to show who were in and who were out of the organizations with which they dealt; that if an organization had only 51 per cent of the employees on a carrier, it had the right to negotiate the contract for that class of employees, and where the contract was negotiated by the organization on such road, the entire number of men in that class was treated as being represented by the organization. On roads where they had no rights of representation, the entire number in any class were given as having other representation, or no representation.

The purpose of submitting the figures was fully explained before they were submitted; the character of the figures was explained at the time of their submission, and it is emphatically denied that they were either intended to be misleading or that they were misleading. Proof of their substantial accuracy was furnished this committee on the morning of April 7 by the representatives of the organizations who appeared here in opposition to this bill and who stated to the committee the number of men they were authorized to represent and who were not represented by the organizations that are the proponents of this bill.

While the railroads, as already stated, have no information as to what individuals among their employees are or are not members of an organization, the representatives of the organizations proposing this bill have the data and do know just how many men are enrolled in their organizations and, therefore, how many they have valid authority to represent; and it is significant that no figures were offered by them in opposition to those furnished from the carriers; and that their representative resorted to abuse instead of statistical facts which must undoubtedly be available to him.

Mr. Walber, the witness who produced these figures, plainly stated in his testimony that the figures did not purport to give the number of members of the 20 organizations supporting the bill. These figures were presented to throw the best light available upon the question of representation, and were given for that purpose and with that clear explanation on the face of the record.

V

Mr. Richberg has a subheading in his statement entitled "The contracting-out scandal." The very first statement in that was as follows:

"Since Mr. Crowley testified in behalf of the New York Central to the effect that this railroad only violated decisions of the Labor Board in the way of questioning the jurisdiction of the board, it seems necessary to explain to the committee the utter insincerity of such a claim."

The refutation of this statement is contained in the record itself. No such testimony was given by Mr. Crowley either in words or in effect. His statement was as follows:

"The records indicate that of the 104 decisions rendered by the Labor Board on cases submitted by the various New York Central system lines only two have not as yet been obeyed. These two decisions deal with the question of the leasing or contracting for the operation of shops. The question is of great importance, as it involves fundamental questions of contract and constitutional right. It is now before the United States District Court for the Northern District of Illinois, and when the court renders a decision the New York Central lines will obey the mandate of that court. In this connection, it might be well to recall that the action in court was brought by the contractor against the United States Labor Board and the Big Four Railroad Co. was made a party by order of the court."

Mr. Richberg further says:

"He (Mr. Crowley) did not tell you that about a year ago Judge Carpenter stated in open court that in his judgment the Supreme Court of the United States in the Pennsylvania case had decided that his court had no jurisdiction to review the decisions of the Labor Board."

The following statement in regard to the matter is authorized by the New York Central Railroad: It is true that Mr. Crowley did not make this statement, as Mr. Crowley is a truthful person and Judge Carpenter made no such statement in open court.

Mr. Richberg further says:

"He [Mr. Crowley] did not tell you that the attorneys for the railroads had adopted tactics of delay whereby, although as an attorney in that case I have sought for a year to get it argued and submitted to the court, we have not had a hearing."

Mr. Crowley did not make any such statement for the reason that that would be inaccurate.

Mr. Richberg wrote a letter, dated October 30, 1923, to the attorney for the New York Central Railroad in Chicago, in charge of the railroad's side of the case, which is as follows:

SIDNEY C. MURRAY, Esq.,
Glennon Cary, Walker & Murray,
536 LaSalle Street Station, Chicago, Ill.

DEAR SIDNEY: I am informed by Judge Carpenter's secretary that matters such as the Beach Grove shop case are now heard by Judge Wilkerson and a motion before him is necessary to have it set for hearing. Are you disposed to join me in such an effort, or is it possible that this case might be disposed of without hearing?

Very truly yours,

DONALD R. RICHBERG.

To this letter Mr. Murray replied on November 3, 1923, as follows:

Mr. DONALD R. RICHBERG,
Attorney at Law, 360 North Michigan Avenue,
Chicago, Ill.

DEAR DONALD: I have your letter of October 30 in connection with the Beach Grove shop case. I have no objection, as far as the Big Four is concerned, in joining you in an effort to have the case set down for an early hearing. I do not see how the case can be disposed of without a hearing as we are going to insist that writ of certiorari issue and that the Pennsylvania decision does not cover our case. I am going into the trial of a case next Wednesday which will take me about a week, and any time after that date we can set it down for some convenient date in the near future.

I have not talked to Mr. Condon or Mr. Miller, who represents the Labor Board, but I assume this procedure would be satisfactory to them.

Yours sincerely,

S. C. MURRAY.

No request has since been made of counsel for the railroad by Mr. Richberg to join in this motion and no motion has been made by Mr. Richberg for a hearing. The railroad company has never asked for an adjournment, the Labor Board has never asked for an adjournment, nor has the contractor who brought the action and is the plaintiff. As indicated by Mr. Crowley in his testimony, the action was brought by the contractor against the Labor Board and the railroad company was made a party by the order of the court upon its own motion. Under the rules of the court Mr. Richberg can at any time move for a hearing or request a hearing. This he has not at any time done.

Mr. Richberg, after complaining of the contracting out of shop work by the New York Central, says:

"Now, in 1924 we have the situation that for three years the employees have suffered under violations of law without redress, have had their wages reduced, and working conditions arbitrarily changed."

And he reads into the record decision 982 of the Labor Board. In that case the Labor Board said:

"This contract system is not an innovation recently born of the desire to circumvent the transportation act. It existed long before the transportation act was ever dreamed of. In fact, it was practiced as far back as 1855 by the Philadelphia, Wilmington & Baltimore Railroad, and it is pertinent to note that the actual operation of the trains of this road was let by contract."

The board found as a fact in that case—upon the decision in which case subsequent contract cases were rested—that the contention that the contracts were actually fraudulent was not substantiated.

A number of such contract cases involving the New York Central or other of its system lines have been before the Labor Board and in every case in which the Labor Board has made a decisions the railroad companies have applied that decision, excepting in the Beech Grove case and one other invovling similar questions of contract and of constitutional right.

Mr. Richberg's statement that the employees have suffered loss of wages is sufficiently answered by the fact that the Beech Grove employees intervened in the action of the United States case in Illinois, claiming in their petition that they possessed a contract right with the contractor which was of great value, and that under this contract they were receiving on an average higher wages than would have been received under the decision of the Labor Board. This statement is, therefore, quite inaccurate.

VI

Mr. Richberg in his statement uses the following language:

"The final argument of the carriers, when it is analyzed, is amazing in its lack of intellectual integrity, in its lack of common morality. It has been extensively argued before this committee that the railroads, under the present transportation act, can agree with their employees upon increased wages and then get the Labor Board to suspend such agreements."

This is an absolute perversion and misstatement of the railroads' argument. No such argument was made and nothing can justify this misrepresentation. What Mr. Holden said on this subject is as follows:

"In passing this law, Congress took another important step and the proposed bill abandons that also. Railroad operations can not be sustained except out of the revenues earned through the service. However, the legislative scheme relating to the establishment and maintenance of just and reasonable freight and passenger rates may be expressed, it is fundamental that the revenues must provide not only sufficient earnings to pay the expenses and taxes, but also sufficient to sustain the investments in and the credit of the railroad properties. Until Title III was passed, there was no statutory relationship between railroad earnings and expenses, but in the transportation act of 1920 Congress imposed the duty upon management to operate the railroads in an honest, economical, and efficient manner and empowered the Interstate Commerce Commission with certain duties to see that this is done. It went further, however, and recognized that there ought to be some scrutiny of agreements made between employees and management to increase wages or compensation through rules relating to working conditions, or in other words that the Interstate Commerce Commission should no longer be left without some form of public scrutiny over wages and compensation agreements which would affect earnings and bring about necessity for increases in rates.

"Congress, therefore, provided in paragraph 3, section 307, Title III, as follows:

"'The Labor Board may, upon its own motion within 10 days after the decision, in accordance with the provisions of section 301, of any dispute with respect to wages or salaries of employees or subordinate officials of carriers, suspend the operation of such decision if the Labor Board is of the opinion that the decision involves such an increase in wages or salaries as will be likely to necessitate a substantial readjustment of rates of any carrier. The Labor Board shall hear any decision so suspended and as soon as practicable and with due diligence decide to affirm or modify such suspended decision.'

"In addition Congress specifically required by paragraph (c) of section 307 that in any decision by the Labor Board relating to wages, 'at least one of the representatives of the public shall concur in the decision.'

"The decision referred to under the provisions of section 301 is the agreement under that section between the carrier and employees reached after the conference required by that section, and this power on the part of the Labor Board to suspend and inquire into these agreements has been made effective by regulations which it has issued requiring all agreements arrived at under section 301 to be filed with it for its information. It was apparently felt by Congress, and with reason, that the parties should not be left to an uncontrolled agreement to increase wages or other forms of compensation; Congress well knowing from past experience that railroad organizations have frequently exerted what is technically called economic pressure upon managements to increase wages, accompanied by threats of strike and the taking of strike votes for the purpose of impressing the management with the seriousness of their intentions and of bringing about concessions and agreements, afterwards termed voluntary, but really in their essence often a surrender, either in whole or in part, by the management rather than submission to an actual crisis.

"Lately the tendency of wages upon railroads has been upward, and various classes of employees have been given increases in compensation as the result of negotiation and conference. In certain classes the process is now going on by individual railroads and otherwise. These increases are within the rights of employees and management under the law and result not only from the prevailing spirit of mutual respect as shown by these conferences and negotiations, but also by the mandate of section 301 that the parties shall exert every reasonable effort and adopt every available means to settle and decide these questions in conference among themselves.

"It may be that some increases in charges for transportation service may have to follow these increases in rates of pay, unless the volume of business substantially increases or by greater economies the necessary balance between revenues and expenses can be restored. Congress placed upon the United States Railroad Labor Board the duty to intervene in the event, in its opinion, these agreements between employees and management appear to involve such increases as may likely necessitate a substantial readjustment in the rates of any carrier, and required at least one public representative on the board to join in any decision reached on this subject. The pending measure destroys this relationship between wage expenses and revenues from rates because it will leave the management and employees free, as under previous legislation, to reach any agreements that they may determine upon, increasing operating expenses accordingly without the Interstate Commerce Commission or the public having any voice in the matter or even knowledge as to the reasons for the increases.

"Under the proposed measure, in the event that the parties do not settle by agreement, as contemplated, they may arbitrate their differences or they may not. If they do arbitrate, it would still remain to be seen whether the results of arbitration boards so established would be more satisfactory to the parties than those under the Newlands Act, or whether these results would be as persuasive to and conclusive upon the shipping public and the Interstate Commerce Commission as the conclusions of a board such as Congress designed the United States Railroad Labor Board to be. As stated, however, if there is agreement without arbitration, there is no form of public scrutiny or control provided in the proposed measure. Arbitration may not be agreed to in all cases and the crisis resulting in the Adamson law which heavily increased railroad expenses is a precedent not to be overlooked. And, finally, it is a matter of the greatest importance for Congress and for the public to determine whether or not they are willing to withdraw from the present advance that was taken in Title III of the transportation act and leave the question of increases in railroad wages to the uncontrolled agreements of the parties or to casual arbitration tribunals that may be agreed upon by the parties."

This passage from Mr. Holden's testimony has been quoted in full for the purpose of showing that there is not one word to support the suggestion that there was any purpose whatever that the railroads intended to get the Labor Board to suspend the agreements which had been made. The point which Mr. Holden was discussing in his testimony, as is perfectly clear from the portion quoted above, was that the agreements with respect to wages, made by railroad managements and their employees, should be reviewed by the public members of the Labor Board from the point of view and for the protection of public interests. The statement to the contrary made by Mr. Richberg is again a gross and unjustifiable distortion and misrepresentation.

VII

Many other statements were made by Mr. Richberg in his argument which were unsupported by facts and which were either unimportant or irrelevant to the questions involved in the discussion of the bill before the committee. It is therefore considered unnecessary to burden the record with a discussion of these statements. The attacks made by him upon the personal integrity and honor of the witnesses who appeared before the committee in criticism of the provisions of the bill are entirely without justification or excuse.

The present law should be left unchanged. The question is not one in which the carriers and their employees alone are interested. It is one in which the public, which in the last analysis pays the bill, is equally interested, and the present law, providing for the protection of that interested party and throwing safeguards about the interests both of employer and employee, is wise legislation, which should be permitted to remain. The Labor Board has justified its creation and its existence and the principle upon which it rests, through four years of trial and the most trying years through which the country has passed. The creation of national boards of adjustment is an adoption of a principle which was in effect during the Federal control of railroads but which did not operate well even when the railroads were under a unified control. The creation of a board of mediation and conciliation and the provisions for arbitration in the pending bill are an application of principles which have heretofore been enacted into law and which have been found to be failures. We have therefore, concretely, a proposal to substitute, for a system of law which has worked well and is working well, a system founded upon principles which in practice have been proved to be unsucessful. To such a proposal we are unalterably opposed.

(Statement of Mr. Donald R. Richberg in reply to statement of Mr. A. P. Thom:)

Mr. Thom's statement of some 7,500 words purports to be a reply to my statement of April 4. It is in fact a medley of personal abuse and involved "explanations" of testimony of the railway executives, which on the whole demonstrate the soundness of my criticisms. I shall exercise the privilege of comment only to discuss the issues and not the personalities involved in this hearing.

1. The carriers now admit that their criticisms as to the methods of choosing employee representatives apply only to the adjustment boards—that otherwise the bill grants, as we have claimed, to every employee the right to be represented as he sees fit either by a company union or a national organization or otherwise.

2. The carriers renew their objection to the prohibition of the bill against any action to influence or coerce the selection of employee representatives. But they explain that they insist on the right to express their objections to dealing with objectionable representatives. The bill does not prohibit the carriers from objecting either to the proposals of the employees or to the conduct of their representatives; but it properly and necessarily prohibits the carriers from attempting to control the selection of representatives. This prohibition is so clearly just that it can not be frankly opposed.

3. The carriers object to the requirements for starting conferences. To make effective the requirement that conferences shall be held these requirements for a time and place have been shown by experience to be necessary. The carriers disavow any policy to delay conferences, but experience has taught the employees that such a policy is consistently adopted by hostile managements. The bill requires only a prompt first conference, which may be only a formal meeting or can readily be postponed by agreement. There is no limit set for the termination of conferences. Therefore the convenience of the parties can be readily served by necessary continuances of conferences from time to time.

4. In regard to the establishment of adjustment boards the carriers urge that the public is not given representation. Under the present transportation act there would have been no public representation on adjustment boards which the executives themselves and the Labor Board have repeatedly declared should have been established to make the transportation act effective. Railroad employments are classified for representation on these adjustment boards in order to take care of all those classes of work which have produced in the past and will continue to produce the majority of grievance disputes. National boards are to include appointees of the President made from nominations by all national organizations of men whose work comes within the jurisdiction of these boards.

If local organizations do not desire to take disputes, not settled in conference, to these national boards they can agree upon appeal to local adjustment boards which are plainly only extensions of local conferences. Since this interpretation

of the act seems to be doubted by the carriers and since such an interpretation would apparently satisfy most of their objections to the adjustment boards and certainly all of the objections that the company unions can possibly raise it may be desirable to write this interpretation into the act in words of one syllable so that further misinterpretation may be avoided.

5. The carriers now apparently admit that the proponents of this legislation represent a large majority of the railroad employees. They admit that their figures do not prove the contrary. They wish the committee vaguely to understand that a large number of employees (possibly 200,000 or 300,000 by stretching the imagination) are not represented by the proponents. Neither the carriers nor the organized employees can tell how many of the thousands of men who have been forced to join company unions in order to be permitted to earn a living, are truly represented by the national organizations. But at least no informed person will assume that the majority of members of the company unions are honestly "represented" by the officers of those unions who have admitted before the committee that they are paid by the railroads. No man is honestly represented in a controversy by the paid employee of his opponent.

6. Concerning the "contracting-out" case pending in the Federal court in Illinois I only answer the statement of the New York Central Railroad in order that by silence I may not seem to assent. The statement which I previously made before the committee is accurate and any statement to the contrary proceeds either from misinformation or a willful desire to misrepresent the facts. The admitted fact that this action has never been brought to a hearing by the party who instituted it proves my contention that it has been willfully delayed and is not disproved by reciting one of my many futile efforts to get the matter heard.

7. Under heading VI quotation is made of my assertion that the railroads have argued that under the present transportation act they "can agree with their employees upon increased wages and then get the Labor Board to suspend such agreements."

Mr. Thom calls this, in his typically mild language, "an absolute perversion and misstatement" and later "a gross and unjustifiable distortion and misrepresentation." He quotes from Mr. Holden extensively to prove his point. I submit that Mr. Holden's statement completely justifies my comment and that any unbiased person reading the two statements will learn from Mr. Thom's comment how recklessly the carriers assail those who oppose them.

8. The conclusion of Mr. Thom's statement is a remarkable example of how an advocate may completely disregard the facts and voice conclusions which a mere statement of the facts refutes.

He says: "The creation of national boards of adjustment is an adoption of a principle which was in effect during Federal control of railroads but which did not operate well even when the railroads were under a unified control."

The facts: During Federal control over 6,000 cases were decided by the national adjustment boards, with less than 12 appeals. Yet Mr. Thom asserts that this principle "did not operate well."

Mr. Thom says: "The creation of a board of mediation and conciliation and the provisions for arbitration in the pending bill are an application of principle which have heretofore been enacted into law and which have been found to be failures."

The facts are: From 1913 to 1919, according to its official report, the Federal Board of Mediation and Conciliation dealt with 148 major disputes involving 586 roads and 620,810 employees, and every single dispute was settled. This is what Mr. Thom calls a failure.

Mr. Thom says: "We have therefore concretely a proposal to substitute for a system of law which has worked well, and is working well, a system founded upon principles which in practice have been proved to be unsuccessful."

The facts are: That during the four years' existence of the Labor Board has occurred the only national strike of railroad employees in our history; that hundreds of disputes have awaited decision and are still waiting decision for periods of from three months to three years; that over 200 decisions of the board have been violated by the railroads whereby several hundred thousand workers have been directly or indirectly deprived of what the board found to be their rights; that the organized railway employees have lost confidence in the board; that railroads and employees in vast numbers have been establishing other machinery for settlement of their disputes. This is a system which Mr. Thom says "has worked well and is working well."

Further comment upon the sincerity and reliability of the carriers' testimony or upon the logic of their chief advocate would seem to be superfluous.

(Letters, telegrams, and statements were subsequently received by the subcommittee relative to Senate bill 2646, from the following:)

OPPOSING THE BILL

R. L. Mays, president Railway Men's International Benevolent Industrial Association.
W. H. Schalk, president Missouri, Kansas & Texas Association of Shop Employees.
W. H. Maize, secretary Missouri, Kansas & Texas Association of Shop Employees.
T. E. Rhodes, chairman Missouri, Kansas & Texas Association of Shop Employees.
E. B. Darby, secretary-treasurer Missouri, Kansas & Texas Association of Shop Employees.
J. B. Coplin, president Corona Chamber of Commerce.
Frank Wiggins, secretary Los Angeles Chamber of Commerce.
A. C. Callahan, manager Stockton Chamber of Commerce.
A. T. Highfill, division chairman Missouri Pacific Mechanics Department Association.
J. T. Ellis, chairman Missouri Pacific Mechanics Department Association.
H. B. Hoffman, general chairman carmen, Missouri Pacific Mechanics Department Association.
O. E. Richards, secretary Missouri Pacific Mechanics Department Associaton.
R. E. Denison, chairman Missouri Pacific Mechanics Department Association.
J. R. Brou, chairman electricians' local, Little Rock, Ark.
W. D. Barton, chairman blacksmiths' local, Little Rock, Ark.
J. R. Joblim, chairman Missouri, Kansas & Texas Association Shop Employees.
C. Aubuchon, chairman Missouri Pacific Mechanics Department Association.
J. A. Adams, chairman Missouri Pacific Mechanics Department Association.
L. W. Fairchild, president Protective Order of Railroad Trainmen.
C. E. Anderson, president Shop Employees Association Union Pacific System.
P. A. Steers, president Maintenance of Way Foremen's Association.
C. D. Bordelon, chairman General Office Employees Southern Pacific lines in Louisiana.
Dan Jones, general chairman train porters.
Jos. Nofles, president Negro Employees Missouri, Kansas & Texas lines.
L. T. Reynoles, secretary Negro Employees Missouri, Kansas & Texas lines.
D. Q. Herrick, president Association Mechanics Supervisors Southern Pacific Co., Pacific System.
W. C. Orem, Short Line.
R. D. Votaw, general president Mechanics and Car Departments Missouri, Kansas & Texas lines.
M. G. Thompson, general secretary-treasurer Missouri, Kansas & Texas lines.
E. J. Scott, general chairman Shop Craft Employees, Clerical and Station Service Employees, Southern Pacific lines in Texas and Louisiana.
O. G. Kissinger, general secretary Southern Pacific lines in Texas and Louisiana.
J. C. McDaniel, general chairman Southern Pacific lines in Texas and Louisiana.
Frank E. Ehlinger, clerical employees.
J. S. Harrell, Southern Pacific lines.
E. W. Kilgore, general chairman Shop Crafts Protection League, Southern Pacific Co.
E. M. Felton, general secretary northern district, Southern Pacific Co., Pacific System.
P. J. Mays, general chairman southern district, Southern Pacific Co., Pacific System.
W. B. Osborn, general secretary southern district, Southern Pacific Co., Pacific System.
T. J. McGuire, chairman Yardmasters Association Southern Pacific lines Louisiana and Texas.
Thos. R. Lloyd, chairman shop committee Missouri Pacific Mechanics Department Association.
A. J. Hotsenpitler, secretary-treasurer Missouri Pacific Mechanics Department Association.
J. Arco, chairman Missouri Pacific Mechanics Department Association.
B. E. Gray, chairman Missouri Pacific Mechanics Department Association.

Frank M. Hill, manager Fresno Traffic Association.
V. E. Floyd, chairman Local 746, Missouri Pacific Mechanics Department.
Henry Day, secretary Carmen's Association, Little Rock, Ark.
Associated Jobbers of Los Angeles.
Fresno County Chamber of Commerce.
P. A. Summer, president Supervisors Forces, Dodge City, Kansas.
E. D. Donovan, chairman Carmen, Dodge City, Kans.
G. W. Glenn, chairman machinist, helpers, and apprentices, Dodge City, Kans.
R. D. Jenkins, chairman electricians, Dodge City, Kans.
B. L. Smith, chairman blacksmiths, Dodge City, Kans.
L. L. Garrison, chairman boilermakers, Dodge City, Kans.
E. J. Beaver, chairman engineers, firemen, and oilers, Dodge City, Kans.
A. G. Fleck, chairman executive board Shop Crafts Association Illinois Central Railroad.
J. W. Gibbons, system secretary Santa Fe supervisors, Atchison Topeka & Santa Fe Railway.
E. L. Owens, Missouri, Kansas & Texas lines, Dallas.
J. F. Jakeman, general chairman Denver & Rio Grande Western Railroad.
Western Lumber Manufacturing Co., San Francisco, Calif.
Chas. W. Rice, general chairman Shop Guilds of the Mechanical Department, Central Railroad of New Jersey.
Hallick Vandermark, general chairman machinists, Central Railroad of New Jersey.
J. S. Daley, chairman Missouri, Kansas & Texas Association.
F. J. Reynolds, general chairman Missouri Pacific Mechanical Department Association.
W. A. Phillips, chairman Missouri, Kansas & Texas Association.
Oakland Chamber of Commerce, California.
W. H. Truesdale, president Delaware, Lackawanna & Western Railroad.
San Francisco Chamber of Commerce.
J. C. Edwards, president Missouri, Kansas & Texas Association of Shop Employees.
H. E. Hudson, general chairman Baltimore & Southern Division of the Clerks' Association Pennsylvania Railroad system.
J. W. Wittekindt, chairman Baltimore division, Pennsylvania system.
C. E. Moring, chairman employees committee representing supervisory foremen.
Illinois Manufactures Association.
Chamber of Commerce, Salt Lake City.
H. L. Petty, general chairman electricians, Missouri Pacific Railroad.
Edmond McNamara, grand president Brotherhood of Railroad Station Employees.
T. G. Holman, chairman Missouri Pacific Mechanical Department Association.
Clarence M. Odder, American Short Line Railroad Association.
F. H. Speakman, general chairman carmen.
San Pedro Chamber of Commerce, California.
Wilmington Chamber of Commerce, California.
San Diego Chamber of Commerce, California.
United States Chamber of Commerce, California.
Elcentro Chamber of Commerce, California.
L. E. Levinson, representing general office force Southern Pacific lines, Texas and Louisiana.
J. C. McDaniel, chairman Association of Clerical Employees, Southern Pacific lines, Texas and Louisiana.
E. J. Scott, general chairman locomotive department Southern Pacific lines, Texas and Louisiana.
W. E. Namemdorf, general chairman car department.
O. G. Kissinger, general secretary-treasurer Association Shop Craft Employees.
C. C. English, chairman clerical forces, eastern region, Pennsylvania.
H. C. Clark, chairman clerical forces, central region, Pennsylvania.
W. J. Betz, chairman clerical forces, southwestern region, Pennsylvania.
E. H. Malick, miscellaneous forces, eastern region, Pennsylvania.
Chas. W. Bate, miscellaneous forces, central region, Pennsylvania.
H. L. Mansfield, miscellaneous forces, southwestern region, Pennsylvania.
F. W. Schnuberger, miscellaneous forces, northwestern region, Pennsylvania.
Chamber of Commerce of the United States.
Western Lumber Manufactures Co.
Associated Organization of Shop Craft Employees, Great Northern Railway.
Mechanical Department Association, Local No. 7, Burlington Railroad.

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